

HOUSE BILL NO. 741

INTRODUCED BY HARP, HAGER, HALLIGAN, MEYER

BY REQUEST OF THE STATE AUDITOR

IN THE HOUSE

FEBRUARY 13, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & LABOR.

ON MOTION, REREFERRED TO COMMITTEE
ON TAXATION.

MARCH 19, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 20, 1987 PRINTING REPORT.

MARCH 21, 1987 SECOND READING, DO PASS.

MARCH 23, 1987 ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 84; NOES, 10.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 24, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

MARCH 25, 1987 ON MOTION, REREFERRED TO COMMITTEE
ON BUSINESS & INDUSTRY.

MARCH 27, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 30, 1987 SECOND READING, CONCURRED IN.

ON MOTION, RULES SUSPENDED AND BILL
PLACED ON THIRD READING THIS DAY.

MARCH 30, 1987

THIRD READING, CONCURRED IN.
AYES, 47; NOES, 3.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 8, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 9, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 House BILL NO. 741
 2 INTRODUCED BY HARP Hoyer
 3 BY REQUEST OF THE STATE AUDITOR

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 LAW RELATING TO HEALTH SERVICE CORPORATIONS; AMENDING
 7 SECTIONS 33-1-102, 33-1-201, 33-30-102, 33-30-105,
 8 33-30-203, 33-30-204, 33-30-301, 33-30-307, 33-30-312, AND
 9 33-30-1007, MCA; AND PROVIDING AN APPLICABILITY DATE AND A
 10 DELAYED EFFECTIVE DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 33-1-102, MCA, is amended to read:

14 "33-1-102. Compliance required -- exceptions -- health
 15 service corporations. (1) No person shall transact a
 16 business of insurance in Montana or relative to a subject
 17 resident, located, or to be performed in Montana without
 18 complying with the applicable provisions of this code.

19 (2) No provision of this code shall apply with respect
 20 to:

21 (a) domestic farm mutual insurers as identified in
 22 chapter 4, except as stated in chapter 4;

23 (b) domestic benevolent associations as identified in
 24 chapter 6, except as stated in chapter 6; and

25 (c) fraternal benefit societies, except as stated in

1 chapter 7.

2 (3) This code ~~shall not apply~~ applies to health
 3 service corporations, ~~to the extent that the~~ The existence
 4 ~~and operations~~ of such corporations ~~are authorized~~ is
 5 governed by Title 35, chapter 2, and related sections of the
 6 Montana Code Annotated."

7 Section 2. Section 33-1-201, MCA, is amended to read:

8 "33-1-201. Definitions -- insurance in general. For
 9 the purposes of this code, the following definitions apply
 10 unless the context requires otherwise:

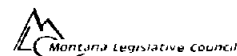
11 (1) An "alien insurer" is one formed under the laws of
 12 any country other than the United States, its states,
 13 districts, territories, and commonwealths.

14 (2) An "authorized insurer" is one duly authorized by
 15 subsisting certificate of authority issued by the
 16 commissioner to transact insurance in this state.

17 (3) A "domestic insurer" is one incorporated under the
 18 laws of this state.

19 (4) A "foreign insurer" is one formed under the laws
 20 of any jurisdiction other than this state. Except where
 21 distinguished by context, foreign insurer includes also an
 22 alien insurer.

23 (5) "Insurance" is a contract whereby one undertakes
 24 to indemnify another or pay or provide a specified or
 25 determinable amount or benefit upon determinable



1 contingencies.

2 (6) "Insurer" includes every person engaged as
3 indemnitor, surety, or contractor in the business of
4 entering into contracts of insurance. The term also
5 includes a health service corporation referred to in
6 33-1-102.

7 (7) A "resident domestic insurer" is an insurer
8 incorporated under the laws of this state and:

9 (a) if a mutual company, not less than one-half of the
10 policyholders are natural persons who are residents of this
11 state; or

12 (b) if a stock insurer, not less than one-half of the
13 shares are owned by natural persons who are residents of
14 this state and all of the directors and officers of the
15 insurer are residents of this state.

16 (8) "State", when used as to jurisdiction, means a
17 state, the District of Columbia, or a territory,
18 commonwealth, or possession of the United States.

19 (9) "Transact", with respect to insurance, includes
20 any of the following:

21 (a) solicitation and inducement;

22 (b) preliminary negotiations;

23 (c) effectuation of a contract of insurance;

24 (d) transaction of matters subsequent to effectuation
25 of the contract of insurance and arising out of it.

1 (10) An "unauthorized insurer" is one not authorized by
2 subsisting certificate of authority issued by the
3 commissioner to transact insurance in this state."

4 Section 3. Section 33-30-102, MCA, is amended to read:
5 "33-30-102. Application of this chapter --
6 construction of other related laws. (1) All health service
7 corporations heretofore or hereafter organized are subject
8 to the provisions of this chapter title.

9 (2) A law of this state other than the provisions of
10 this chapter applicab e to health service corporations shall
11 be construed in accordance with the fundamental nature of a
12 health service corporation, and in the event of a conflict
13 between that law and the provisions of this chapter, the
14 latter shall prevail."

15 Section 4. Section 33-30-105, MCA, is amended to read:
16 "33-30-105. Examination of a health service
17 corporation. (1) If the commissioner believes a health
18 service corporation is unable or potentially unable to
19 fulfill its contractual obligations to its members, the
20 commissioner may conduct an examination of that corporation.

21 (2) In addition to the examination authorized in
22 subsection (1), at least once every 4 years, the
23 commissioner shall conduct an examination of each health
24 service corporation to determine if the corporation is
25 fulfilling its contractual obligations by prompt

1 satisfaction of claims at the highest monetary level
2 consistent with reasonable dues or fees, and that the
3 corporation's management exercises appropriate fiscal
4 controls, operations, and personnel policies to assure that
5 efficient and economic administration restrains overhead
6 costs for the benefit of its members.

7 (3) Each health service corporation examined, its
8 officers, employees, and agents, shall produce and make
9 available to the commissioner or his examiners the accounts,
10 records, documents, files, information, assets, and matters
11 in its possession or control relating to the subject of the
12 examination.

13 (4) The commissioner or his examiner shall make a
14 verified report of the examination.

15 (5) The report shall comprise only facts appearing
16 from the books, papers, records, or documents of the
17 corporation examined or ascertained from the testimony,
18 under oath, of individuals concerning its affairs and
19 conclusions and recommendations as warranted by those facts.

20 (6) The commissioner shall furnish a copy of the
21 proposed report to the corporation examined not less than 20
22 days prior to its filing in his office. If the corporation
23 requests a hearing, in writing, within the 20-day period,
24 the commissioner shall grant one with respect to the report
25 and shall not file the report until after the hearing and

1 after modifications, if any, the commissioner deems proper.

2 (7) The health service corporation shall pay for each
3 examination conducted pursuant to subsections (1) and (2) in
4 accordance with 33-1-413."

5 Section 5. Section 33-30-203, MCA, is amended to read:
6 "33-30-203. Premium tax exemption. A health service
7 corporation is ~~exempt from all premium taxes~~ subject to the
8 premium tax in 33-2-705."

9 Section 6. Section 33-30-204, MCA, is amended to read:
10 "33-30-204. Fees. (1) Every health service corporation
11 subject to the provisions of this chapter shall pay the
12 following fees to the commissioner for enforcement of the
13 provisions of this chapter:

- 14 (a) enrollment representative's license:
 - 15 (i) application for original license including
 - 16 examination and issuance of license \$10 \$15
 - 17 (ii) annual renewal \$-5 \$15
 - 18 (iii) examination for license, for each examination ...
 - 19 \$15
 - 20 (b) filing any other statement or report \$ 1
 - 21 (c) for a certified copy of any document or other
 - 22 paper filed in the office of the commissioner, per page
 - 23 \$50
 - 24 (d) for the certificate and for affixing the seal
 - 25 thereto \$-1 \$10

- 1 (e) filing of a membership contract \$10 \$25
- 2 (f) filing of a membership contract package . \$25 \$100
- 3 (g) filing annual report, a fee of 50 cents for each
- 4 individual or family unit the corporation covered at the
- 5 close of the year to which the annual report is applicable,
- 6 except that the minimum fee payable upon filing of an annual
- 7 report is \$100; other than as part of application for
- 8 original license \$25
- 9 (h) issuance of health service corporation license ...
- 10 \$300
- 11 (i) annual continuation of health service corporation
- 12 license \$300

13 (2) The commissioner shall promptly deposit with the
 14 state treasurer, to the credit of the general fund insurance
 15 regulatory trust account provided for in 17-2-121, all fees
 16 and license fees received by him under this section."

17 Section 7. Section 33-30-301, MCA, is amended to read:

18 "33-30-301. Forms -- filing, approval, hearing on
 19 disapproval, appeal. (1) A copy of all forms of the
 20 membership contract or any type of endorsement or rider
 21 shall be filed with and approved by the commissioner of this
 22 state and the insurance regulator of the state of domicile
 23 of the health service corporation in accordance with chapter
 24 1, part 5. the commissioner at least 30 days before that
 25 form is first used. When a form does not comply with the

1 requirements of this chapter, the commissioner shall notify
 2 the corporation in writing of that failure and include the
 3 reasons for his opinion. Unless the corporation requests a
 4 hearing within 10 days, notice by the commissioner disallows
 5 use of this form by the corporation, if the corporation
 6 challenges the commissioner's disallowance of a form it
 7 shall request a hearing on that issue. The commissioner
 8 shall schedule a hearing as soon as practicable but not less
 9 than 15 days from the date of the request, if the
 10 commissioner finds after the hearing, that the form is not
 11 in compliance with this chapter, he may disapprove the form
 12 and issue a final order to that effect. Notice of
 13 disapproval, including the grounds for disapproval, shall be
 14 presented to the corporation not less than 30 days after the
 15 hearing. The final order is effective 30 days after the
 16 hearing.

17 (2) A corporation whose forms have been ordered
 18 discontinued by the commissioner may appeal, within 15 days
 19 after an order, to a district court of the state. The court,
 20 upon filing of the proper petition, shall cause the forms
 21 and orders of the commissioner to be brought before it, and
 22 upon hearing of the case, the court shall either affirm or
 23 reverse and vacate the order of the commissioner.

24 (3) The court may suspend or stay a final order of the
 25 commissioner under this section pending trial of the issues

1 ~~or-the-appeal-~~"

2 Section 8. Section 33-30-307, MCA, is amended to read:

3 "33-30-307. Notice of rate increases ~~---comment-to~~
4 ~~commissioner.~~ (1) A health service corporation must inform
5 members covered under individual plans of any rate increase
6 at least 45 days prior to such increase. ~~Each-rate--increase~~
7 ~~notice-must-include-~~

8 ~~(a)--a--provision--notifying--the--member--that--he--may~~
9 ~~comment-on-the-rate-increase,-and~~

10 ~~(b)--the-mailing-address-of-the-commissioner-~~

11 (2) The premium rate for an individual policy
12 converted from a group plan in accordance with 33-30-1007(3)
13 may not be increased during the first 6 months of coverage
14 of the individual policy."

15 Section 9. Section 33-30-312, MCA, is amended to read:

16 "33-30-312. Enrollment representative -- filing with
17 and approval by commissioner -- license. (1) Each
18 corporation subject to the provisions of this chapter shall
19 notify the commissioner through its proper officer or agent
20 of the name, title, and address of each person it desires
21 appointed as an enrollment representative. The notice shall
22 be accompanied by a written application, upon a form
23 furnished by the commissioner, from the appointee. The
24 commissioner shall issue to that appointee a license which
25 states that the person named is a constituted enrollment

1 representative of the corporation in this state, if, upon
2 receipt of this written notice, when accompanied by the
3 proper fee, it appears that:

4 (a) the appointee is a competent and suitable person
5 who intends to hold himself out in good faith as the
6 corporation's enrollment representative; and

7 (b) he qualifies under the provisions of this section.

8 (2) For appointees who have not acted as an enrollment
9 representative for a health service corporation for a
10 period of 2 years prior to July 1, 1975, if he considers it
11 desirable, the commissioner may require an appointee to
12 submit to an examination to determine the qualifications of
13 the appointee to act as an enrollment representative in this
14 state. This examination ~~shall-inquire--into--an--applicant's~~
15 ~~knowledge-of-the-provisions-of-this-chapter-and-of-the-forms~~
16 ~~submitted--and-utilized-by-the-employing-corporation~~ must be
17 the same as given to applicants for a disability insurance
18 agent license as provided for in chapter 17.

19 (3) Upon receipt by the commissioner of notification
20 from a health service corporation that the corporation
21 desires a particular individual to be appointed as its
22 enrollment representative, that person has a temporary
23 enrollment representative's license until the commissioner
24 notifies the corporation of action taken upon the
25 application. If the commissioner rejects the application,

1 the prospective appointee's eligibility to act as an
2 enrollment representative ceases on the day the corporation
3 is notified of rejection."

4 Section 10. Section 33-30-1007, MCA, is amended to
5 read:

6 "33-30-1007. Conversion on termination of eligibility.

7 (1) The group hospital or medical service plan contract
8 issued or renewed by a health service corporation after
9 October 1, 1981, shall contain a provision that if the
10 insurance or any portion of it on a person, his dependents,
11 or family members covered under the policy ceases because of
12 termination of his employment or of his membership in the
13 class or classes eligible for coverage under the policy, or
14 as a result of an employer discontinuing his business, or as
15 a result of an employer discontinuing the policy issued by
16 the health service corporation and not providing for any
17 other group disability insurance or plan, such person shall,
18 provided he has been insured for a period of 3 months, be
19 entitled to have issued to him by the insurer, without
20 evidence of insurability, an individual policy of hospital
21 or medical service insurance on himself, his dependents, or
22 family members, provided application for the individual
23 policy shall be made and the first premium tendered to the
24 insurer within 31 days after the termination of group
25 coverage.

1 (2) The individual policy shall, at the option of the
2 insured, be on any of the forms then customarily issued by
3 the insurer to individual policyholders with the exception
4 of those whose eligibility is determined by their
5 affiliation other than by employment with a particular
6 entity.

7 (3) The premium on the individual policy shall be at
8 the insurer's then customary rate applicable to the coverage
9 of the individual policy but may not be greater than 150% of
10 the insurer's highest group rate for a policy with the same
11 benefits as the conversion policy."

12 NEW SECTION. Section 11. License required. (1) No
13 person may act as a health service corporation and no health
14 service corporation may conduct business in this state
15 except as authorized by a license issued by the
16 commissioner.

17 (2) Such license may be issued by the commissioner
18 only after the person has complied with the applicable
19 provisions of this title.

20 (3) A health service corporation is entitled to a
21 continuation of its license upon payment of the annual
22 continuation fee specified in 33-30-204(1)(i) and upon
23 continued compliance with the provisions of this title.

24 (4) A license issued or continued under this section
25 may be revoked or suspended by the commissioner for

1 violation of this title.

2 NEW SECTION. Section 12. Membership contracts to
3 provide for freedom of choice of practitioners --
4 professional practice not enlarged. (1) A membership
5 contract delivered, issued for delivery, or renewed in this
6 state must provide that the member shall have full freedom
7 of choice in the selection of any duly licensed physician,
8 dentist, osteopath, chiropractor, optometrist, chiropodist,
9 psychologist, licensed social worker, or nurse specialist
10 specifically listed in 37-8-202 for treatment of any illness
11 or injury within the scope and limitations of that person's
12 practice. Whenever such policies insure against the expense
13 of drugs, the member shall have full freedom of choice in
14 the selection of any duly licensed and registered
15 pharmacist. A health service corporation shall offer, at
16 additional cost to the member, the option of disability and
17 health insurance coverage for services performed by a
18 licensed professional counselor.

19 (2) Nothing in this section may be construed as
20 enlarging the scope and limitations of practice of any of
21 the licensed professions enumerated in subsection (1), nor
22 may this section be construed as amending, altering, or
23 repealing any statutes relating to the licensing or use of
24 hospitals.

25 (3) Nothing in this section may be construed to

1 require a health service corporation to pay those
2 practitioners enumerated in subsection (1) an amount greater
3 than that paid for similar services to practitioners
4 contracting with the health service corporation.

5 NEW SECTION. Section 13. Extension of authority. Any
6 existing authority of the commissioner of insurance to make
7 rules on the subject of the provisions of this act is
8 extended to the provisions of this act.

9 NEW SECTION. Section 14. Codification instructions.
10 (1) Section 11 is intended to be codified as an integral
11 part of Title 33, chapter 30, part 1, and the provisions of
12 Title 33, chapter 30, part 1, apply to section 11.

13 (2) Section 12 is intended to be codified as an
14 integral part of Title 33, chapter 30, part 10, and the
15 provisions of Title 33, chapter 30, part 10, apply to
16 section 12.

17 NEW SECTION. Section 15. Applicability. Section 11
18 applies to membership contracts entered into or renewed
19 after June 30, 1988.

20 NEW SECTION. Section 16. Effective date. This act is
21 effective January 1, 1988.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB741, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the law relating to health services corporations; amending Sections 33-1-102, 33-1-201, 33-30-102, 33-30-105, 33-30-203, 33-30-204, 33-30-301, 33-30-307, 33-30-312 and 33-30-1007, MCA; and providing an applicability date and a delayed effective date.

ASSUMPTIONS:

1. There will continue to be only two Health Service Corporations in the State.
2. The number of covered individuals will be 107,000 each year of '89 Biennium.
3. The total volume of premiums written by these Corporations will be \$132,956,728 in FY88 and \$146,252,401 in FY89.
4. The number of agents under this category will be approximately 400 in both years.
5. The two year examination for Blue Cross/Blue Shield in FY88 will cost \$36,000. The examination for Western Vision Services will cost \$5,000 in FY89. These examinations will be paid for by the companies, with no expenditure of state funds.
6. Insurance Division expenditures include a reversion factor of 2%.

FISCAL IMPACT:Revenues:

| | <u>FY88</u> | | | <u>FY89</u> | | |
|---|--------------------|---------------------|-------------------|--------------------|---------------------|-------------------|
| | <u>Current Law</u> | <u>Proposed Law</u> | <u>Difference</u> | <u>Current Law</u> | <u>Proposed Law</u> | <u>Difference</u> |
| Insurance Fees, Licenses, and Premiums Tax | \$25,297,000 | \$28,902,458 | \$3,605,458 | \$26,685,000 | \$30,656,089 | \$3,971,089 |

Expenditures:

| | | | | | | |
|---------------------|--------------|--------------|-------------|--------------|--------------|------------|
| Insurance Division* | \$ 689,000 | \$ 653,000 | (\$ 36,000) | \$ 678,000 | \$ 673,000 | (\$ 5,000) |
| Retirement System | \$ 5,671,000 | \$ 5,671,000 | \$ 0 | \$ 6,005,000 | \$ 6,005,000 | \$ 0 |

* The cost of the examinations for the health service corporations will be borne by the corporations.

Funding:

| | | | | | | |
|--------------|--------------|--------------|-------------|--------------|--------------|-------------|
| General Fund | \$18,937,000 | \$22,578,458 | \$3,641,458 | \$20,002,000 | \$23,978,089 | \$3,976,089 |
|--------------|--------------|--------------|-------------|--------------|--------------|-------------|

David L. Hunter

DATE

2/17/87

DAVID L. HUNTER, BUDGET DIRECTOR

Office of Budget and Program Planning

John Harp

DATE

JOHN HARP, PRIMARY SPONSOR

Fiscal Note for HB741, as introduced.**HB 741**

RE-REFERRED AND
APPROVED BY COMMITTEE
ON TAXATION
AS AMENDED

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10 DELAYED EFFECTIVE DATE."

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17 resident, located, or to be performed in Montana without
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20 to:

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22 chapter 4, except as stated in chapter 4;

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25 (c) fraternal benefit societies, except as stated in

1 chapter 7.

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3 service corporations AS PRESCRIBED IN 33-30-102, ~~to the~~
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15 subsisting certificate of authority issued by the
16 commissioner to transact insurance in this state.

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18 laws of this state.

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24 to indemnify another or pay or provide a specified or
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1 contingencies.

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 3 indemnitor, surety, or contractor in the business of
 4 entering into contracts of insurance. The term also
 5 includes a health service corporation referred--to--in
 6 33-1-102 IN THE PROVISIONS LISTED IN 33-30-102.

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 8 incorporated under the laws of this state and:

9 (a) if a mutual company, not less than one-half of the
 10 policyholders are natural persons who are residents of this
 11 state; or

12 (b) if a stock insurer, not less than one-half of the
 13 shares are owned by natural persons who are residents of
 14 this state and all of the directors and officers of the
 15 insurer are residents of this state.

16 (8) "State", when used as to jurisdiction, means a
 17 state, the District of Columbia, or a territory,
 18 commonwealth, or possession of the United States.

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 20 any of the following:

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 6 construction of other related laws. (1) All health service
 7 corporations heretofore or hereafter organized are subject
 8 to the provisions of this chapter ~~title-~~ CHAPTER. IN
 9 ADDITION TO THE PROVISIONS CONTAINED IN THIS CHAPTER, OTHER
 10 CHAPTERS AND PROVISIONS OF THIS TITLE APPLY TO HEALTH
 11 SERVICE CORPORATIONS AS FOLLOWS: 33-17-212 THROUGH 33-17-214
 12 AND CHAPTERS 1, 15, 18, 19, AND 22.

13 (2) A law of this state other than the provisions of
 14 this chapter applicable to health service corporations shall
 15 be construed in accordance with the fundamental nature of a
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 14 "33-30-204. Fees. (1) Every health service corporation
 15 subject to the provisions of this chapter shall pay the
 16 following fees to the commissioner for enforcement of the
 17 provisions of this chapter:

- 18 (a) enrollment representative's license:
 - 19 (i) application for original license including
 - 20 examination and issuance of license \$10 \$15
 - 21 (ii) annual renewal \$-5 \$15
 - 22 (iii) examination for license, for each examination ...
 - 23 \$15
- 24 (b) filing any other statement or report \$ 1
- 25 (c) for a certified copy of any document or other

1 paper filed in the office of the commissioner, per page
 2 \$.50
 3 (d) for the certificate and for affixing the seal
 4 thereto \$-i \$10
 5 (e) filing of a membership contract \$i0 \$25
 6 (f) filing of a membership contract package . \$25 \$100
 7 (g) filing annual report, a-fee-of-50-cents-for-each
 8 individual-or-family-unit-the--corporation--covered--at--the
 9 close--of--the--year--to--which--the--annual--report--is--applicabier,
 10 except--that--the--minimum--fee--payable--upon--filing--of--an--annual
 11 report--is--\$i00; other than as part of application for
 12 original license \$25
 13 (h) issuance of health service corporation license ...
 14 \$300
 15 (i) annual continuation of health service corporation
 16 license \$300
 17 (2) The commissioner shall promptly deposit with the
 18 state treasurer, to the credit of the general fund insurance
 19 regulatory trust account provided for in 17-2-121, all fees
 20 and license fees received by him under this section."
 21 Section 6. Section 33-30-301, MCA, is amended to read:
 22 "33-30-301. Forms -- filing, approval,--hearing--on
 23 disapproval;--appeal. (i) A copy of all forms of the
 24 membership contract or any type of endorsement or rider
 25 shall be filed with and approved by the commissioner of this

1 state and the insurance regulator of the state of domicile
 2 of the health service corporation in accordance with chapter
 3 1, part 5. the--commissioner-at-least-30-days-before-that
 4 form-is-first-used;--When-a-form-does--not--comply--with--the
 5 requirements--of--this--chapter;--the--commissioner--shall--notify
 6 the--corporation--in--writing--of--that--failure--and--include--the
 7 reasons--for--his--opinion;--Unless--the--corporation--requests--a
 8 hearing--within--10--days;--notice--by--the--commissioner--disallows
 9 use--of--this--form--by--the--corporation;--If--the--corporation
 10 challenges--the--commissioner's--disallowance--of--a--form--it
 11 shall--request--a--hearing--on--that--issue;--The--commissioner
 12 shall--schedule--a--hearing--as--soon--as--practicable--but--not--less
 13 than--15--days--from--the--date--of--the--request;--if--the
 14 commissioner--finds;--after--the--hearing;--that--the--form--is--not
 15 in--compliance--with--this--chapter;--he--may--disapprove--the--form
 16 and--issue--a--final--order--to--that--effect;--Notice--of
 17 disapproval;--including--the--grounds--for--disapproval;--shall--be
 18 presented--to--the--corporation--not--less--than--30--days--after--the
 19 hearing;--The--final--order--is--effective--30--days--after--the
 20 hearing;
 21 (2) A--corporation--whose--forms--have--been--ordered
 22 discontinued--by--the--commissioner--may--appeal;--within--15--days
 23 after--an--order;--to--a--district--court--of--the--state;--The--court;
 24 upon--filing--of--the--proper--petition;--shall--cause--the--forms
 25 and--orders--of--the--commissioner--to--be--brought--before--it;--and

1 upon-hearing-of-the-case,-the-court-shall-either--affirm--or
 2 reverse-and-vacate-the-order-of-the-commissioner-

3 (3)--The-court-may-suspend-or-stay-a-final-order-of-the
 4 commissioner--under-this-section-pending-trial-of-the-issues
 5 or-the-appeal-

6 Section 7. Section 33-30-307, MCA, is amended to read:

7 "33-30-307. Notice of rate increases ----comment--to
 8 commissioner. (1) A health service corporation must inform
 9 members covered under individual plans of any rate increase
 10 at least 45 days prior to such increase. Each-rate-increase
 11 notice-must-include:

12 (a)--a-provision--notifying--the--member--that--he--may
 13 comment-on-the-rate-increase;-and

14 (b)--the-mailing-address-of-the-commissioner-

15 (2) The premium rate for an individual policy
 16 converted from a group plan in accordance with 33-30-1007(3)
 17 may not be increased during the first 6 months of coverage
 18 of the individual policy."

19 Section 8. Section 33-30-312, MCA, is amended to read:

20 "33-30-312. Enrollment representative -- filing with
 21 and approval by commissioner -- license. (1) Each
 22 corporation subject to the provisions of this chapter shall
 23 notify the commissioner through its proper officer or agent
 24 of the name, title, and address of each person it desires
 25 appointed as an enrollment representative. The notice shall

1 be accompanied by a written application, upon a form
 2 furnished by the commissioner, from the appointee. The
 3 commissioner shall issue to that appointee a license which
 4 states that the person named is a constituted enrollment
 5 representative of the corporation in this state, if, upon
 6 receipt of this written notice, when accompanied by the
 7 proper fee, it appears that:

8 (a) the appointee is a competent and suitable person
 9 who intends to hold himself out in good faith as the
 10 corporation's enrollment representative; and

11 (b) he qualifies under the provisions of this section.

12 (2) For appointees who have not acted as an enrollment
 13 representative for a health service corporation for a
 14 period of 2 years prior to July 1, 1975, if he considers it
 15 desirable, the commissioner may require an appointee to
 16 submit to an examination to determine the qualifications of
 17 the appointee to act as an enrollment representative in this
 18 state. This examination shall-inquire-into-an-applicant's
 19 knowledge-of-the-provisions-of-this-chapter-and-of-the-forms
 20 submitted-and-utilized-by-the-employing-corporation must be
 21 the same as given to applicants for a disability insurance
 22 agent license as provided for in chapter--17 33-17-212
 23 THROUGH 33-17-214.

24 (3) Upon receipt by the commissioner of notification
 25 from a health service corporation that the corporation

1 desires a particular individual to be appointed as its
 2 enrollment representative, that person has a temporary
 3 enrollment representative's license until the commissioner
 4 notifies the corporation of action taken upon the
 5 application. If the commissioner rejects the application,
 6 the prospective appointee's eligibility to act as an
 7 enrollment representative ceases on the day the corporation
 8 is notified of rejection."

9 Section 9. Section 33-30-1007, MCA, is amended to
 10 read:

11 "33-30-1007. Conversion on termination of eligibility.

12 (1) The group hospital or medical service plan contract
 13 issued or renewed by a health service corporation after
 14 October 1, 1981, shall contain a provision that if the
 15 insurance or any portion of it on a person, his dependents,
 16 or family members covered under the policy ceases because of
 17 termination of his employment or of his membership in the
 18 class or classes eligible for coverage under the policy, or
 19 as a result of an employer discontinuing his business, or as
 20 a result of an employer discontinuing the policy issued by
 21 the health service corporation and not providing for any
 22 other group disability insurance or plan, such person shall,
 23 provided he has been insured for a period of 3 months, be
 24 entitled to have issued to him by the insurer, without
 25 evidence of insurability, an individual policy of hospital

1 or medical service insurance on himself, his dependents, or
 2 family members, provided application for the individual
 3 policy shall be made and the first premium tendered to the
 4 insurer within 31 days after the termination of group
 5 coverage.

6 (2) The individual policy shall, at the option of the
 7 insured, be on any of the forms then customarily issued by
 8 the insurer to individual policyholders with the exception
 9 of those whose eligibility is determined by their
 10 affiliation other than by employment with a particular
 11 entity.

12 (3) The premium on the individual policy shall be at
 13 the insurer's then customary rate applicable to the coverage
 14 of the individual policy but may not be greater than 150% of
 15 the insurer's highest group rate for a policy with the same
 16 benefits as the conversion policy."

17 NEW SECTION. Section 10. License required. (1) No
 18 person may act as a health service corporation and no health
 19 service corporation may conduct business in this state
 20 except as authorized by a license issued by the
 21 commissioner.

22 (2) Such license may be issued by the commissioner
 23 only after the person has complied with the applicable
 24 provisions of this title.

25 (3) A health service corporation is entitled to a

1 continuation of its license upon payment of the annual
 2 continuation fee specified in 33-30-204(1)(i) and upon
 3 continued compliance with the provisions of this title.

4 (4) A license issued or continued under this section
 5 may be revoked or suspended by the commissioner for
 6 violation of this title.

7 NEW SECTION. Section 12. Membership contracts to
 8 provide for freedom of choice of practitioners of
 9 professional practice not enlarged. (1) A membership
 10 contract delivered, issued for delivery, or renewed in this
 11 state must provide that the member shall have full freedom
 12 of choice in the selection of any duly licensed physician,
 13 dentist, osteopath, chiropractor, optometrist, chiropodist,
 14 psychologist, licensed social worker, or nurse specialist
 15 specifically listed in 37-8-202 for treatment of any illness
 16 or injury within the scope and limitations of that person's
 17 practice. Whenever such policies insure against the expense
 18 of drugs, the member shall have full freedom of choice in
 19 the selection of any duly licensed and registered
 20 pharmacist. A health service corporation shall offer, at
 21 additional cost to the member, the option of disability and
 22 health insurance coverage for services performed by a
 23 licensed professional counselor.

24 (2) Nothing in this section may be construed as
 25 enlarging the scope and limitations of practice of any of

1 the licensed professions enumerated in subsection (1), nor
 2 may this section be construed as amending, altering, or
 3 repealing any statutes relating to the licensing or use of
 4 hospitals.

5 (3) Nothing in this section may be construed to
 6 require a health service corporation to pay those
 7 practitioners enumerated in subsection (1) an amount greater
 8 than that paid for similar services to practitioners
 9 contracting with the health service corporation.

10 NEW SECTION. Section 11. Extension of authority. Any
 11 existing authority of the commissioner of insurance to make
 12 rules on the subject of the provisions of this act is
 13 extended to the provisions of this act.

14 NEW SECTION. Section 12. Codification instructions
 15 INSTRUCTION. (1) Section 11 is intended to be codified as
 16 an integral part of Title 33, chapter 30, part 1, and the
 17 provisions of Title 33, chapter 30, part 1, apply to section
 18 11.

19 (2) Section 12 is intended to be codified as an
 20 integral part of Title 33, chapter 30, part 10, and the
 21 provisions of Title 33, chapter 30, part 10, apply to
 22 section 12.

23 NEW SECTION. Section 13. Applicability. Section 11
 24 applies to membership contracts entered into or renewed
 25 after June 30, 1988: 8 APPLIES TO INDIVIDUALS APPOINTED AS

1 ENROLLMENT REPRESENTATIVES ON OR AFTER THE EFFECTIVE DATE OF
2 THIS ACT.

3 NEW SECTION. Section 14. Effective date. This act is
4 effective January 1, 1988.

-End-

1 HOUSE BILL NO. 741

2 INTRODUCED BY HARP, HAGER, HALLIGAN, MEYER

3 BY REQUEST OF THE STATE AUDITOR

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAW RELATING TO HEALTH SERVICE CORPORATIONS; AMENDING
7 SECTIONS 33-1-102, 33-1-201, 33-30-102, 33-30-105,
8 ~~33-30-203~~, 33-30-204, 33-30-301, 33-30-307, 33-30-312, AND
9 33-30-1007, MCA; AND PROVIDING AN APPLICABILITY DATE AND A
10 DELAYED EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 33-1-102, MCA, is amended to read:

14 "33-1-102. Compliance required -- exceptions -- health
15 service corporations. (1) No person shall transact a
16 business of insurance in Montana or relative to a subject
17 resident, located, or to be performed in Montana without
18 complying with the applicable provisions of this code.

19 (2) No provision of this code shall apply with respect
20 to:

21 (a) domestic farm mutual insurers as identified in
22 chapter 4, except as stated in chapter 4;

23 (b) domestic benevolent associations as identified in
24 chapter 6, except as stated in chapter 6; and

25 (c) fraternal benefit societies, except as stated in

1 chapter 7.

2 (3) This code ~~shall not apply~~ applies to health
3 service corporations AS PRESCRIBED IN 33-30-102. ~~to the~~
4 ~~extent that the~~ The existence and ~~operations~~ of such
5 corporations ~~are authorized~~ is governed by Title 35, chapter
6 2, and related sections of the Montana Code Annotated."

7 Section 2. Section 33-1-201, MCA, is amended to read:

8 "33-1-201. Definitions -- insurance in general. For
9 the purposes of this code, the following definitions apply
10 unless the context requires otherwise:

11 (1) An "alien insurer" is one formed under the laws of
12 any country other than the United States, its states,
13 districts, territories, and commonwealths.

14 (2) An "authorized insurer" is one duly authorized by
15 subsisting certificate of authority issued by the
16 commissioner to transact insurance in this state.

17 (3) A "domestic insurer" is one incorporated under the
18 laws of this state.

19 (4) A "foreign insurer" is one formed under the laws
20 of any jurisdiction other than this state. Except where
21 distinguished by context, foreign insurer includes also an
22 alien insurer.

23 (5) "Insurance" is a contract whereby one undertakes
24 to indemnify another or pay or provide a specified or
25 determinable amount or benefit upon determinable

1 contingencies.

2 (6) "Insurer" includes every person engaged as
3 indemnitor, surety, or contractor in the business of
4 entering into contracts of insurance. The term also
5 includes a health service corporation referred--to--in
6 33-1-102 IN THE PROVISIONS LISTED IN 33-30-102.

7 (7) A "resident domestic insurer" is an insurer
8 incorporated under the laws of this state and:

9 (a) if a mutual company, not less than one-half of the
10 policyholders are natural persons who are residents of this
11 state; or

12 (b) if a stock insurer, not less than one-half of the
13 shares are owned by natural persons who are residents of
14 this state and all of the directors and officers of the
15 insurer are residents of this state.

16 (8) "State", when used as to jurisdiction, means a
17 state, the District of Columbia, or a territory,
18 commonwealth, or possession of the United States.

19 (9) "Transact", with respect to insurance, includes
20 any of the following:

21 (a) solicitation and inducement;

22 (b) preliminary negotiations;

23 (c) effectuation of a contract of insurance;

24 (d) transaction of matters subsequent to effectuation
25 of the contract of insurance and arising out of it.

1 (10) An "unauthorized insurer" is one not authorized by
2 subsisting certificate of authority issued by the
3 commissioner to transact insurance in this state."

4 Section 3. Section 33-30-102, MCA, is amended to read:
5 "33-30-102. Application of this chapter --
6 construction of other related laws. (1) All health service
7 corporations heretofore or hereafter organized are subject
8 to the provisions of this chapter title- CHAPTER. IN
9 ADDITION TO THE PROVISIONS CONTAINED IN THIS CHAPTER, OTHER
10 CHAPTERS AND PROVISIONS OF THIS TITLE APPLY TO HEALTH
11 SERVICE CORPORATIONS AS FOLLOWS: 33-17-212 THROUGH 33-17-214
12 AND CHAPTERS 1, 15, 18, 19, AND 22.

13 (2) A law of this state other than the provisions of
14 this chapter applicable to health service corporations shall
15 be construed in accordance with the fundamental nature of a
16 health service corporation, and in the event of a conflict
17 between that law and the provisions of this chapter, the
18 latter shall prevail."

19 Section 4. Section 33-30-105, MCA, is amended to read:

20 "33-30-105. Examination of a health service
21 corporation. (1) If the commissioner believes a health
22 service corporation is unable or potentially unable to
23 fulfill its contractual obligations to its members, the
24 commissioner may conduct an examination of that corporation.

25 (2) In addition to the examination authorized in

1 subsection (1), at least once every 4 years, the
 2 commissioner shall conduct an examination of each health
 3 service corporation to determine if the corporation is
 4 fulfilling its contractual obligations by prompt
 5 satisfaction of claims at the highest monetary level
 6 consistent with reasonable dues or fees, and that the
 7 corporation's management exercises appropriate fiscal
 8 controls, operations, and personnel policies to assure that
 9 efficient and economic administration restrains overhead
 10 costs for the benefit of its members.

11 (3) Each health service corporation examined, its
 12 officers, employees, and agents, shall produce and make
 13 available to the commissioner or his examiners the accounts,
 14 records, documents, files, information, assets, and matters
 15 in its possession or control relating to the subject of the
 16 examination.

17 (4) The commissioner or his examiner shall make a
 18 verified report of the examination.

19 (5) The report shall comprise only facts appearing
 20 from the books, papers, records, or documents of the
 21 corporation examined or ascertained from the testimony,
 22 under oath, of individuals concerning its affairs and
 23 conclusions and recommendations as warranted by those facts.

24 (6) The commissioner shall furnish a copy of the
 25 proposed report to the corporation examined not less than 20

1 days prior to its filing in his office. If the corporation
 2 requests a hearing, in writing, within the 20-day period,
 3 the commissioner shall grant one with respect to the report
 4 and shall not file the report until after the hearing and
 5 after modifications, if any, the commissioner deems proper.

6 (7) The health service corporation shall pay for each
 7 examination conducted pursuant to subsections (1) and (2) in
 8 accordance with 33-1-413."

9 ~~Section 5. Section 33-30-203, MCA, is amended to read:~~
 10 ~~"33-30-203. Premium tax exemption. A health service~~
 11 ~~corporation is exempt from all premium taxes subject to the~~
 12 ~~premium tax in 33-2-705."~~

13 Section 5. Section 33-30-204, MCA, is amended to read:
 14 "33-30-204. Fees. (1) Every health service corporation
 15 subject to the provisions of this chapter shall pay the
 16 following fees to the commissioner for enforcement of the
 17 provisions of this chapter:

- 18 (a) enrollment representative's license:
- 19 (i) application for original license including
- 20 examination and issuance of license \$10 \$15
- 21 (ii) annual renewal \$-5 \$15
- 22 (iii) examination for license, for each examination ...
- 23 \$15
- 24 (b) filing any other statement or report \$ 1
- 25 (c) for a certified copy of any document or other

1 paper filed in the office of the commissioner, per page
 2 \$.50
 3 (d) for the certificate and for affixing the seal
 4 thereto \$ ~~1~~ \$10
 5 (e) filing of a membership contract ~~10~~ \$25
 6 (f) filing of a membership contract package . \$25 \$100
 7 (g) filing annual report, a fee of 50 cents for each
 8 individual or family unit the corporation covered at the
 9 close of the year to which the annual report is applicable,
 10 except that the minimum fee payable upon filing of an annual
 11 report is \$100; other than as part of application for
 12 original license \$25
 13 (h) issuance of health service corporation license ...
 14 \$300
 15 (1) annual continuation of health service corporation
 16 license \$300
 17 (2) The commissioner shall promptly deposit with the
 18 state treasurer, to the credit of the general fund insurance
 19 regulatory trust account provided for in 17-2-121, all fees
 20 and license fees received by him under this section."
 21 Section 6. Section 33-30-301, MCA, is amended to read:
 22 "33-30-301. Forms -- filing, approval, hearing, on
 23 disapproval, appeal. (1) A copy of all forms of the
 24 membership contract or any type of endorsement or rider
 25 shall be filed with and approved by the commissioner of this

1 state and the insurance regulator of the state of domicile
 2 of the health service corporation in accordance with chapter
 3 1, part 5. the commissioner at least 30 days before that
 4 form is first used. When a form does not comply with the
 5 requirements of this chapter, the commissioner shall notify
 6 the corporation in writing of that failure and include the
 7 reasons for his opinion. Unless the corporation requests a
 8 hearing within 10 days, notice by the commissioner disallows
 9 use of this form by the corporation, if the corporation
 10 challenges the commissioner's disallowance of a form it
 11 shall request a hearing on that issue. The commissioner
 12 shall schedule a hearing as soon as practicable but not less
 13 than 15 days from the date of the request. If the
 14 commissioner finds, after the hearing, that the form is not
 15 in compliance with this chapter, he may disapprove the form
 16 and issue a final order to that effect. Notice of
 17 disapproval, including the grounds for disapproval, shall be
 18 presented to the corporation not less than 30 days after the
 19 hearing. The final order is effective 30 days after the
 20 hearing.
 21 (2) A corporation whose forms have been ordered
 22 discontinued by the commissioner may appeal, within 15 days
 23 after an order, to a district court of the state. The court,
 24 upon filing of the proper petition, shall cause the forms
 25 and orders of the commissioner to be brought before it, and

1 upon hearing of the case, the court shall either affirm or
2 reverse and vacate the order of the commissioner.

3 {3}--The court may suspend or stay a final order of the
4 commissioner under this section pending trial of the issues
5 or the appeal."

6 Section 7. Section 33-30-307, MCA, is amended to read:

7 "33-30-307. Notice of rate increases ---comment--to
8 commissioner. (1) A health service corporation must inform
9 members covered under individual plans of any rate increase
10 at least 45 days prior to such increase. Each rate increase
11 notice must include:

12 {a}--a provision notifying the member that he may
13 comment on the rate increase; and

14 {b}--the mailing address of the commissioner;

15 (2) The premium rate for an individual policy
16 converted from a group plan in accordance with 33-30-1007(3)
17 may not be increased during the first 6 months of coverage
18 of the individual policy."

19 Section 8. Section 33-30-312, MCA, is amended to read:

20 "33-30-312. Enrollment representative -- filing with
21 and approval by commissioner -- license. (1) Each
22 corporation subject to the provisions of this chapter shall
23 notify the commissioner through its proper officer or agent
24 of the name, title, and address of each person it desires
25 appointed as an enrollment representative. The notice shall

1 be accompanied by a written application, upon a form
2 furnished by the commissioner, from the appointee. The
3 commissioner shall issue to that appointee a license which
4 states that the person named is a constituted enrollment
5 representative of the corporation in this state, if, upon
6 receipt of this written notice, when accompanied by the
7 proper fee, it appears that:

8 (a) the appointee is a competent and suitable person
9 who intends to hold himself out in good faith as the
10 corporation's enrollment representative; and

11 (b) he qualifies under the provisions of this section.

12 (2) For appointees who have not acted as an enrollment
13 representative for a health service corporation for a
14 period of 2 years prior to July 1, 1975, if he considers it
15 desirable, the commissioner may require an appointee to
16 submit to an examination to determine the qualifications of
17 the appointee to act as an enrollment representative in this
18 state. This examination shall inquire into an applicant's
19 knowledge of the provisions of this chapter and of the forms
20 submitted and utilized by the employing corporation must be
21 the same as given to applicants for a disability insurance
22 agent license as provided for in chapter 33-17-212
23 THROUGH 33-17-214.

24 (3) Upon receipt by the commissioner of notification
25 from a health service corporation that the corporation

1 desires a particular individual to be appointed as its
 2 enrollment representative, that person has a temporary
 3 enrollment representative's license until the commissioner
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 5 application. If the commissioner rejects the application,
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 10 read:

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 12 (1) The group hospital or medical service plan contract
 13 issued or renewed by a health service corporation after
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 15 insurance or any portion of it on a person, his dependents,
 16 or family members covered under the policy ceases because of
 17 termination of his employment or of his membership in the
 18 class or classes eligible for coverage under the policy, or
 19 as a result of an employer discontinuing his business, or as
 20 a result of an employer discontinuing the policy issued by
 21 the health service corporation and not providing for any
 22 other group disability insurance or plan, such person shall,
 23 provided he has been insured for a period of 3 months, be
 24 entitled to have issued to him by the insurer, without
 25 evidence of insurability, an individual policy of hospital

1 or medical service insurance on himself, his dependents, or
 2 family members, provided application for the individual
 3 policy shall be made and the first premium tendered to the
 4 insurer within 31 days after the termination of group
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6 (2) The individual policy shall, at the option of the
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 13 the insurer's then customary rate applicable to the coverage
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 16 benefits as the conversion policy."

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 18 person may act as a health service corporation and no health
 19 service corporation may conduct business in this state
 20 except as authorized by a license issued by the
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 23 only after the person has complied with the applicable
 24 provisions of this title.

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1 continuation of its license upon payment of the annual
 2 continuation fee specified in 33-30-204(1)(i) and upon
 3 continued compliance with the provisions of this title.

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 5 may be revoked or suspended by the commissioner for
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 8 provide for freedom of choice of practitioners
 9 professional practice not enlarged. (1) A membership
 10 contract delivered, issued for delivery, or renewed in this
 11 state must provide that the member shall have full freedom
 12 of choice in the selection of any duly licensed physician,
 13 dentist, osteopath, chiropractor, optometrist, chiropodist,
 14 psychologist, licensed social worker, or nurse specialist
 15 specifically listed in 37-8-202 for treatment of any illness
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 17 practice. Whenever such policies insure against the expense
 18 of drugs, the member shall have full freedom of choice in
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 3 repealing any statutes relating to the licensing or use of
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 7 practitioners enumerated in subsection (1) an amount greater
 8 than that paid for similar services to practitioners
 9 contracting with the health service corporation.

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 11 existing authority of the commissioner of insurance to make
 12 rules on the subject of the provisions of this act is
 13 extended to the provisions of this act.

14 NEW SECTION. Section 12. Codification instructions
 15 INSTRUCTION. (1) Section 11 10 is intended to be codified as
 16 an integral part of Title 33, chapter 30, part 1, and the
 17 provisions of Title 33, chapter 30, part 1, apply to section
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 24 applies to membership contracts entered into or renewed
 25 after June 30, 1988. 8 APPLIES TO INDIVIDUALS APPOINTED AS

1 ENROLLMENT REPRESENTATIVES ON OR AFTER THE EFFECTIVE DATE OF

2 THIS ACT.

3 NEW SECTION. Section 14. Effective date. This act is

4 effective January 1, 1988.

-End-

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3 BY REQUEST OF THE STATE AUDITOR

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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAW RELATING TO HEALTH SERVICE CORPORATIONS; AMENDING
7 SECTIONS 33-1-102, 33-1-201, 33-30-102, 33-30-105,
8 ~~33-30-203~~, 33-30-204, 33-30-301, 33-30-307, 33-30-312, AND
9 33-30-1007, MCA; AND PROVIDING AN APPLICABILITY DATE AND A
10 DELAYED EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 33-1-102, MCA, is amended to read:

14 "33-1-102. Compliance required -- exceptions -- health
15 service corporations. (1) No person shall transact a
16 business of insurance in Montana or relative to a subject
17 resident, located, or to be performed in Montana without
18 complying with the applicable provisions of this code.

19 (2) No provision of this code shall apply with respect
20 to:

21 (a) domestic farm mutual insurers as identified in
22 chapter 4, except as stated in chapter 4;

23 (b) domestic benevolent associations as identified in
24 chapter 6, except as stated in chapter 6; and

25 (c) fraternal benefit societies, except as stated in

1 chapter 7.

2 (3) This code ~~shall--not--apply~~ applies to health
3 service corporations AS PRESCRIBED IN 33-30-102. ~~to--the~~
4 ~~extent--that--the~~ The existence ~~and--operations~~ of such
5 corporations ~~are--authorized~~ is governed by Title 35, chapter
6 2, and related sections of the Montana Code Annotated."

7 Section 2. Section 33-1-201, MCA, is amended to read:

8 "33-1-201. Definitions -- insurance in general. For
9 the purposes of this code, the following definitions apply
10 unless the context requires otherwise:

11 (1) An "alien insurer" is one formed under the laws of
12 any country other than the United States, its states,
13 districts, territories, and commonwealths.

14 (2) An "authorized insurer" is one duly authorized by
15 subsisting certificate of authority issued by the
16 commissioner to transact insurance in this state.

17 (3) A "domestic insurer" is one incorporated under the
18 laws of this state.

19 (4) A "foreign insurer" is one formed under the laws
20 of any jurisdiction other than this state. Except where
21 distinguished by context, foreign insurer includes also an
22 alien insurer.

23 (5) "Insurance" is a contract whereby one undertakes
24 to indemnify another or pay or provide a specified or
25 determinable amount or benefit upon determinable

1 contingencies.

2 (6) "Insurer" includes every person engaged as
 3 indemnitor, surety, or contractor in the business of
 4 entering into contracts of insurance. The term also
 5 includes a health service corporation referred to in
 6 33-1-102 IN THE PROVISIONS LISTED IN 33-30-102.

7 (7) A "resident domestic insurer" is an insurer
 8 incorporated under the laws of this state and:

9 (a) if a mutual company, not less than one-half of the
 10 policyholders are natural persons who are residents of this
 11 state; or

12 (b) if a stock insurer, not less than one-half of the
 13 shares are owned by natural persons who are residents of
 14 this state and all of the directors and officers of the
 15 insurer are residents of this state.

16 (8) "State", when used as to jurisdiction, means a
 17 state, the District of Columbia, or a territory,
 18 commonwealth, or possession of the United States.

19 (9) "Transact", with respect to insurance, includes
 20 any of the following:

- 21 (a) solicitation and inducement;
- 22 (b) preliminary negotiations;
- 23 (c) effectuation of a contract of insurance;
- 24 (d) transaction of matters subsequent to effectuation
- 25 of the contract of insurance and arising out of it.

1 (10) An "unauthorized insurer" is one not authorized by
 2 subsisting certificate of authority issued by the
 3 commissioner to transact insurance in this state."

4 Section 3. Section 33-30-102, MCA, is amended to read:
 5 "33-30-102. Application of this chapter --
 6 construction of other related laws. (1) All health service
 7 corporations heretofore or hereafter organized are subject
 8 to the provisions of this chapter ~~title:~~ CHAPTER. IN
 9 ADDITION TO THE PROVISIONS CONTAINED IN THIS CHAPTER, OTHER
 10 CHAPTERS AND PROVISIONS OF THIS TITLE APPLY TO HEALTH
 11 SERVICE CORPORATIONS AS FOLLOWS: 33-17-212 THROUGH 33-17-214
 12 AND CHAPTERS 1, 15, 18, 19, AND 22, EXCEPT 33-22-111.

13 (2) A law of this state other than the provisions of
 14 this chapter applicable to health service corporations shall
 15 be construed in accordance with the fundamental nature of a
 16 health service corporation, and in the event of a conflict
 17 between that law and the provisions of this chapter, the
 18 latter shall prevail."

19 Section 4. Section 33-30-105, MCA, is amended to read:
 20 "33-30-105. Examination of a health service
 21 corporation. (1) If the commissioner believes a health
 22 service corporation is unable or potentially unable to
 23 fulfill its contractual obligations to its members, the
 24 commissioner may conduct an examination of that corporation.

25 (2) In addition to the examination authorized in

1 subsection (1), at least once every 4 years, the
 2 commissioner shall conduct an examination of each health
 3 service corporation to determine if the corporation is
 4 fulfilling its contractual obligations by prompt
 5 satisfaction of claims at the highest monetary level
 6 consistent with reasonable dues or fees, and that the
 7 corporation's management exercises appropriate fiscal
 8 controls, operations, and personnel policies to assure that
 9 efficient and economic administration restrains overhead
 10 costs for the benefit of its members.

11 (3) Each health service corporation examined, its
 12 officers, employees, and agents, shall produce and make
 13 available to the commissioner or his examiners the accounts,
 14 records, documents, files, information, assets, and matters
 15 in its possession or control relating to the subject of the
 16 examination.

17 (4) The commissioner or his examiner shall make a
 18 verified report of the examination.

19 (5) The report shall comprise only facts appearing
 20 from the books, papers, records, or documents of the
 21 corporation examined or ascertained from the testimony,
 22 under oath, of individuals concerning its affairs and
 23 conclusions and recommendations as warranted by those facts.

24 (6) The commissioner shall furnish a copy of the
 25 proposed report to the corporation examined not less than 20

1 days prior to its filing in his office. If the corporation
 2 requests a hearing, in writing, within the 20-day period,
 3 the commissioner shall grant one with respect to the report
 4 and shall not file the report until after the hearing and
 5 after modifications, if any, the commissioner deems proper.

6 (7) The health service corporation shall pay for each
 7 examination conducted pursuant to subsections (1) and (2) in
 8 accordance with 33-1-413."

9 ~~Section 5--Section 33-30-203, MCA, is amended to read:~~
 10 ~~"33-30-203--Premium-tax-exemption--A health--service~~
 11 ~~corporation--is exempt from all premium taxes subject to the~~
 12 ~~premium tax in 33-2-705."~~

13 Section 5. Section 33-30-204, MCA, is amended to read:

14 "33-30-204. Fees. (1) Every health service corporation
 15 subject to the provisions of this chapter shall pay the
 16 following fees to the commissioner for enforcement of the
 17 provisions of this chapter:

- 18 (a) enrollment representative's license:
 - 19 (i) application for original license including
 - 20 examination and issuance of license ~~\$10~~ \$15
 - 21 (ii) annual renewal \$-5 \$15
 - 22 (iii) examination for license, for each examination ...
 - 23 \$15
- 24 (b) filing any other statement or report \$ 1
- 25 (c) for a certified copy of any document or other

1 paper filed in the office of the commissioner, per page
 2 \$.50
 3 (d) for the certificate and for affixing the seal
 4 thereto \$ ~~1~~ \$10
 5 (e) filing of a membership contract \$ ~~10~~ \$25
 6 (f) filing of a membership contract package . \$25 \$100
 7 (g) filing annual report, ~~a fee of 50 cents for each~~
 8 ~~individual or family unit the corporation covered at the~~
 9 ~~close of the year to which the annual report is applicable,~~
 10 ~~except that the minimum fee payable upon filing of an annual~~
 11 ~~report is \$100; other than as part of application for~~
 12 original license \$25
 13 (h) issuance of health service corporation license ...
 14 \$300
 15 (i) annual continuation of health service corporation
 16 license \$300
 17 (2) The commissioner shall promptly deposit with the
 18 state treasurer, to the credit of the general fund insurance
 19 regulatory trust account provided for in 17-2-121, all fees
 20 and license fees received by him under this section."
 21 Section 6. Section 33-30-301, MCA, is amended to read:
 22 "33-30-301. Forms -- filing, approval, ~~hearing on~~
 23 ~~disapproval, appeal.~~ (i) A copy of all forms of the
 24 membership contract or any type of endorsement or rider
 25 shall be filed with and approved by the commissioner of this

1 state and the insurance regulator of the state of domicile
 2 of the health service corporation in accordance with chapter
 3 1, part 5. ~~the commissioner at least 30 days before that~~
 4 ~~form is first used; when a form does not comply with the~~
 5 ~~requirements of this chapter, the commissioner shall notify~~
 6 ~~the corporation in writing of that failure and include the~~
 7 ~~reasons for his opinion; unless the corporation requests a~~
 8 ~~hearing within 10 days, notice by the commissioner disallows~~
 9 ~~use of this form by the corporation; if the corporation~~
 10 ~~challenges the commissioner's disallowance of a form it~~
 11 ~~shall request a hearing on that issue; the commissioner~~
 12 ~~shall schedule a hearing as soon as practicable but not less~~
 13 ~~than 15 days from the date of the request; if the~~
 14 ~~commissioner finds, after the hearing, that the form is not~~
 15 ~~in compliance with this chapter, he may disapprove the form~~
 16 ~~and issue a final order to that effect; notice of~~
 17 ~~disapproval, including the grounds for disapproval, shall be~~
 18 ~~presented to the corporation not less than 30 days after the~~
 19 ~~hearing; the final order is effective 30 days after the~~
 20 ~~hearing;~~
 21 (2) ~~A corporation whose forms have been ordered~~
 22 ~~discontinued by the commissioner may appeal within 15 days~~
 23 ~~after an order, to a district court of the state; the court,~~
 24 ~~upon filing of the proper petition, shall cause the forms~~
 25 ~~and orders of the commissioner to be brought before it, and~~

1 upon hearing of the case, the court shall either affirm or
2 reverse and vacate the order of the commissioner.

3 ~~{3}--The court may suspend or stay a final order of the
4 commissioner--under this section pending trial of the issues
5 or the appeal."~~

6 Section 7. Section 33-30-307, MCA, is amended to read:

7 "33-30-307. Notice of rate increases ~~---comment--to~~
8 commissioner. (1) A health service corporation must inform
9 members covered under individual plans of any rate increase
10 at least 45 days prior to such increase. ~~Each rate increase~~
11 ~~notice must include:~~

12 ~~{a)--a provision notifying the member that he may~~
13 ~~comment on the rate increase; and~~

14 ~~{b)--the mailing address of the commissioner;~~

15 (2) The premium rate for an individual policy
16 converted from a group plan in accordance with 33-30-1007(3)
17 may not be increased during the first 6 months of coverage
18 of the individual policy."

19 Section 8. Section 33-30-312, MCA, is amended to read:

20 "33-30-312. Enrollment representative -- filing with
21 and approval by commissioner -- license. (1) Each
22 corporation subject to the provisions of this chapter shall
23 notify the commissioner through its proper officer or agent
24 of the name, title, and address of each person it desires
25 appointed as an enrollment representative. The notice shall

1 be accompanied by a written application, upon a form
2 furnished by the commissioner, from the appointee. The
3 commissioner shall issue to that appointee a license which
4 states that the person named is a constituted enrollment
5 representative of the corporation in this state, if, upon
6 receipt of this written notice, when accompanied by the
7 proper fee, it appears that:

8 (a) the appointee is a competent and suitable person
9 who intends to hold himself out in good faith as the
10 corporation's enrollment representative; and

11 (b) he qualifies under the provisions of this section.

12 (2) For appointees who have not acted as an enrollment
13 representative for a health service corporation for a
14 period of 2 years prior to July 1, 1975, if he considers it
15 desirable, the commissioner may require an appointee to
16 submit to an examination to determine the qualifications of
17 the appointee to act as an enrollment representative in this
18 state. This examination ~~shall inquire into an applicant's~~
19 ~~knowledge of the provisions of this chapter and of the forms~~
20 ~~submitted and utilized by the employing corporation must be~~
21 ~~the same as given to applicants for a disability insurance~~
22 ~~agent license as provided for in chapter--17 33-17-212~~
23 ~~THROUGH 33-17-214.~~

24 (3) Upon receipt by the commissioner of notification
25 from a health service corporation that the corporation

1 desires a particular individual to be appointed as its
 2 enrollment representative, that person has a temporary
 3 enrollment representative's license until the commissioner
 4 notifies the corporation of action taken upon the
 5 application. If the commissioner rejects the application,
 6 the prospective appointee's eligibility to act as an
 7 enrollment representative ceases on the day the corporation
 8 is notified of rejection."

9 Section 9. Section 33-30-1007, MCA, is amended to
 10 read:

11 "33-30-1007. Conversion on termination of eligibility.
 12 (1) The group hospital or medical service plan contract
 13 issued or renewed by a health service corporation after
 14 October 1, 1981, shall contain a provision that if the
 15 insurance or any portion of it on a person, his dependents,
 16 or family members covered under the policy ceases because of
 17 termination of his employment or of his membership in the
 18 class or classes eligible for coverage under the policy, or
 19 as a result of an employer discontinuing his business, or as
 20 a result of an employer discontinuing the policy issued by
 21 the health service corporation and not providing for any
 22 other group disability insurance or plan, such person shall,
 23 provided he has been insured for a period of 3 months, be
 24 entitled to have issued to him by the insurer, without
 25 evidence of insurability, an individual policy of hospital

1 or medical service insurance on himself, his dependents, or
 2 family members, provided application for the individual
 3 policy shall be made and the first premium tendered to the
 4 insurer within 31 days after the termination of group
 5 coverage.

6 (2) The individual policy shall, at the option of the
 7 insured, be on any of the forms then customarily issued by
 8 the insurer to individual policyholders with the exception
 9 of those whose eligibility is determined by their
 10 affiliation other than by employment with a particular
 11 entity.

12 (3) The premium on the individual policy shall be at
 13 the insurer's then customary rate applicable to the coverage
 14 of the individual policy but may not be greater than 150% of
 15 the insurer's highest group rate for a policy with the same
 16 benefits as the conversion policy."

17 NEW SECTION. Section 10. License required. (1) No
 18 person may act as a health service corporation and no health
 19 service corporation may conduct business in this state
 20 except as authorized by a license issued by the
 21 commissioner.

22 (2) Such license may be issued by the commissioner
 23 only after the person has complied with the applicable
 24 provisions of this title.

25 (3) A health service corporation is entitled to a

1 continuation of its license upon payment of the annual
 2 continuation fee specified in 33-30-204(1)(i) and upon
 3 continued compliance with the provisions of this title.

4 (4) A license issued or continued under this section
 5 may be revoked or suspended by the commissioner for
 6 violation of this title.

7 NEW SECTION. Section 12. Membership contracts to
 8 provide for freedom of choice of practitioners of
 9 professional practice not enlarged. (1) A membership
 10 contract delivered, issued for delivery, or renewed in this
 11 state must provide that the member shall have full freedom
 12 of choice in the selection of any duly licensed physician,
 13 dentist, osteopath, chiropractor, optometrist, chiropodist,
 14 psychologist, licensed social worker, or nurse specialist
 15 specifically listed in 37-8-202 for treatment of any illness
 16 or injury within the scope and limitations of that person's
 17 practice. Whenever such policies insure against the expense
 18 of drugs, the member shall have full freedom of choice in
 19 the selection of any duly licensed and registered
 20 pharmacist. A health service corporation shall offer, at
 21 additional cost to the member, the option of disability and
 22 health insurance coverage for services performed by a
 23 licensed professional counselor.

24 (2) Nothing in this section may be construed as
 25 enlarging the scope and limitations of practice of any of

1 the licensed professions enumerated in subsection (1), nor
 2 may this section be construed as amending, altering, or
 3 repealing any statutes relating to the licensing or use of
 4 hospitals.

5 (3) Nothing in this section may be construed to
 6 require a health service corporation to pay those
 7 practitioners enumerated in subsection (1) an amount greater
 8 than that paid for similar services to practitioners
 9 contracting with the health service corporation.

10 NEW SECTION. Section 11. Extension of authority. Any
 11 existing authority of the commissioner of insurance to make
 12 rules on the subject of the provisions of this act is
 13 extended to the provisions of this act.

14 NEW SECTION. Section 12. Codification instructions
 15 INSTRUCTION. (1) Section 11 10 is intended to be codified as
 16 an integral part of Title 33, chapter 30, part 1, and the
 17 provisions of Title 33, chapter 30, part 1, apply to section
 18 11 10.

19 (2) Section 12 is intended to be codified as an
 20 integral part of Title 33, chapter 30, part 10, and the
 21 provisions of Title 33, chapter 30, part 10, apply to
 22 section 12.

23 NEW SECTION. Section 13. Applicability. Section 11
 24 applies to membership contracts entered into or renewed
 25 after June 30, 1988. 8 APPLIES TO INDIVIDUALS APPOINTED AS

HB 0741/03

1 ENROLLMENT REPRESENTATIVES ON OR AFTER THE EFFECTIVE DATE OF

2 THIS ACT.

3 NEW SECTION. Section 14. Effective date. This act is

4 effective January 1, 1988.

-End-

STANDING COMMITTEE REPORT

SENATE

MARCH 27, 19 87

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 741

THIRD reading copy (BLUE) color

HARP (HAGER)

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"

AB

AND AS AMENDED, BE CONCURRED IN

XXXXXX

XXXXXXXXXX

Allen C. Kolstad

SENATOR ALLEN C. KOLSTAD, Chairman.

3-27-87
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