

SENATE BILL NO. 252

INTRODUCED BY REGAN, HIMSL, MILES, GRADY, PISTORIA, MANNING

IN THE SENATE

JANUARY 29, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON PUBLIC HEALTH, WELFARE & SAFETY.

FEBRUARY 2, 1987 ON MOTION, REREFERRED TO COMMITTEE
ON JUDICIARY.

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

FEBRUARY 20, 1987 PRINTING REPORT.

FEBRUARY 21, 1987 SECOND READING, DO PASS.

FEBRUARY 23, 1987 ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 49; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 24, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON HUMAN SERVICES & AGING.

MARCH 17, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 20, 1987 ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

MARCH 27, 1987 SECOND READING, CONCURRED IN.

MARCH 28, 1987 THIRD READING, CONCURRED IN.
AYES, 89; NOES, 3.

RETURNED TO SENATE.

IN THE SENATE

MARCH 30, 1987

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

1 *State* BILL NO. *252*
 2 INTRODUCED BY *Patricia Astoria* *Richard Manning* *Thomas Miles* *Scott*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING A DISABILITY
 5 INSURANCE POLICY OR A HOSPITAL OR MEDICAL SERVICE PLAN
 6 CONTRACT TO CONTAIN A PROVISION PROVIDING FOR CERTAIN
 7 SUBROGATION RIGHTS; AND PROVIDING AN APPLICABILITY DATE."
 8

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

10 Section 1. Subrogation rights. A disability insurance
 11 policy subject to this chapter may contain a provision
 12 providing that, to the extent necessary for reimbursement of
 13 benefits paid to or on behalf of the insured, the insurer is
 14 entitled to full subrogation against a judgment or recovery
 15 received by the insured from a third party found liable for
 16 a wrongful act or omission that caused the injury
 17 necessitating benefit payments.

18 Section 2. Subrogation rights. A hospital or medical
 19 service plan contract issued by a health service corporation
 20 may contain a provision providing that, to the extent
 21 necessary for reimbursement of benefits paid to or on behalf
 22 of the insured, the health service corporation is entitled
 23 to full subrogation against a judgment or recovery received
 24 by the insured from a third party found liable for a
 25 wrongful act or omission that caused the injury

1 necessitating benefit payments.

2 Section 3. Codification instructions. (1) Section 1 is
 3 intended to be codified as an integral part of Title 33,
 4 chapter 22, and the provisions of Title 33, chapter 22,
 5 apply to section 1.

6 (2) Section 2 is intended to be codified as an
 7 integral part of Title 33, chapter 30, and the provisions of
 8 Title 33, chapter 30, apply to section 2.

9 Section 4. Applicability. This act applies to policies
 10 or contracts delivered, issued for delivery, or renewed in
 11 this state after October 1, 1987.

-End-

RE-REFERRED AND
APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 252

INTRODUCED BY REAM, HIMSL, MILES, GRADY, PISTORIA, MANNING

A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING A DISABILITY INSURANCE POLICY OR A HOSPITAL OR MEDICAL SERVICE PLAN CONTRACT TO CONTAIN A PROVISION PROVIDING FOR CERTAIN SUBROGATION RIGHTS; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Subrogation rights. A disability insurance policy subject to this chapter may contain a provision providing that, to the extent necessary for reimbursement of benefits paid to or on behalf of the insured, the insurer is entitled to full subrogation, AS PROVIDED FOR IN [SECTION 3], against a judgment or recovery received by the insured from a third party found liable for a wrongful act or omission that caused the injury necessitating benefit payments.

Section 2. Subrogation rights. A hospital or medical service plan contract issued by a health service corporation may contain a provision providing that, to the extent necessary for reimbursement of benefits paid to or on behalf of the insured, the health service corporation is entitled to full subrogation, AS PROVIDED FOR IN [SECTION 4], against a judgment or recovery received by the insured from a third

party found liable for a wrongful act or omission that caused the injury necessitating benefit payments.

SECTION 3. NOTICE -- SHARED COSTS OF THIRD-PARTY ACTION -- LIMITATION. (1) IF AN INSURED INTENDS TO INSTITUTE AN ACTION FOR DAMAGES AGAINST A THIRD PARTY, THE INSURED SHALL GIVE THE INSURER REASONABLE NOTICE OF HIS INTENTION TO INSTITUTE THE ACTION.

(2) THE INSURED MAY REQUEST THAT THE INSURER PAY A PROPORTIONATE SHARE OF THE REASONABLE COSTS OF THE THIRD-PARTY ACTION, INCLUDING ATTORNEY FEES.

(3) AN INSURER MAY ELECT NOT TO PARTICIPATE IN THE COST OF THE ACTION. IF SUCH AN ELECTION IS MADE, THE INSURER WAIVES 50% OF ANY SUBROGATION RIGHTS GRANTED TO IT BY [SECTION 1].

(4) THE INSURER'S RIGHT OF SUBROGATION GRANTED IN [SECTION 1] MAY NOT BE ENFORCED UNTIL THE INJURED INSURED HAS BEEN FULLY COMPENSATED FOR HIS INJURIES.

SECTION 4. NOTICE -- SHARED COSTS OF THIRD-PARTY ACTION -- LIMITATION. (1) IF AN INSURED INTENDS TO INSTITUTE AN ACTION FOR DAMAGES AGAINST A THIRD PARTY, THE INSURED SHALL GIVE THE HEALTH SERVICE CORPORATION REASONABLE NOTICE OF HIS INTENTION TO INSTITUTE THE ACTION.

(2) THE INSURED MAY REQUEST THAT THE HEALTH SERVICE CORPORATION PAY A PROPORTIONATE SHARE OF THE REASONABLE COSTS OF THE THIRD-PARTY ACTION, INCLUDING ATTORNEY FEES.



1 (3) A HEALTH SERVICE CORPORATION MAY ELECT NOT TO
2 PARTICIPATE IN THE COST OF THE ACTION. IF SUCH AN ELECTION
3 IS MADE, THE HEALTH SERVICE CORPORATION WAIVES 50% OF ANY
4 SUBROGATION RIGHTS GRANTED TO IT BY [SECTION 2].

5 (4) THE HEALTH SERVICE CORPORATION'S RIGHT OF
6 SUBROGATION GRANTED IN [SECTION 2] MAY NOT BE ENFORCED UNTIL
7 THE INJURED INSURED HAS BEEN FULLY COMPENSATED FOR HIS
8 INJURIES.

9 Section 5. Codification instructions. (1) ~~Section-1-is~~
10 SECTIONS 1 AND 3 ARE intended to be codified as an integral
11 part of Title 33, chapter 22, AND TITLE 2, CHAPTER 18, and
12 the provisions of Title 33, chapter 22, AND TITLE 2, CHAPTER
13 18, apply to ~~section-1~~ SECTIONS 1 AND 3.

14 (2) ~~Section-2-is~~ SECTIONS 2 AND 4 ARE intended to be
15 codified as an integral part of Title 33, chapter 30, and
16 the provisions of Title 33, chapter 30, apply to ~~section--2~~
17 SECTIONS 2 AND 4.

18 Section 6. Applicability. This act applies to policies
19 or contracts delivered, issued for delivery, or renewed in
20 this state after October 1, 1987.

-End-

SENATE BILL NO. 252

INTRODUCED BY REGAN, HIMSL, MILES, GRADY, PISTORIA, MANNING

A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING A DISABILITY INSURANCE POLICY OR A HOSPITAL OR MEDICAL SERVICE PLAN CONTRACT TO CONTAIN A PROVISION PROVIDING FOR CERTAIN SUBROGATION RIGHTS; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Subrogation rights. A disability insurance policy subject to this chapter may contain a provision providing that, to the extent necessary for reimbursement of benefits paid to or on behalf of the insured, the insurer is entitled to full subrogation, AS PROVIDED FOR IN [SECTION 3], against a judgment or recovery received by the insured from a third party found liable for a wrongful act or omission that caused the injury necessitating benefit payments.

Section 2. Subrogation rights. A hospital or medical service plan contract issued by a health service corporation may contain a provision providing that, to the extent necessary for reimbursement of benefits paid to or on behalf of the insured, the health service corporation is entitled to full subrogation, AS PROVIDED FOR IN [SECTION 4], against a judgment or recovery received by the insured from a third

party found liable for a wrongful act or omission that caused the injury necessitating benefit payments.

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(2) THE INSURED MAY REQUEST THAT THE INSURER PAY A PROPORTIONATE SHARE OF THE REASONABLE COSTS OF THE THIRD-PARTY ACTION, INCLUDING ATTORNEY FEES.

(3) AN INSURER MAY ELECT NOT TO PARTICIPATE IN THE COST OF THE ACTION. IF SUCH AN ELECTION IS MADE, THE INSURER WAIVES 50% OF ANY SUBROGATION RIGHTS GRANTED TO IT BY [SECTION 1].

(4) THE INSURER'S RIGHT OF SUBROGATION GRANTED IN [SECTION 1] MAY NOT BE ENFORCED UNTIL THE INJURED INSURED HAS BEEN FULLY COMPENSATED FOR HIS INJURIES.

SECTION 4. NOTICE -- SHARED COSTS OF THIRD-PARTY ACTION -- LIMITATION. (1) IF AN INSURED INTENDS TO INSTITUTE AN ACTION FOR DAMAGES AGAINST A THIRD PARTY, THE INSURED SHALL GIVE THE HEALTH SERVICE CORPORATION REASONABLE NOTICE OF HIS INTENTION TO INSTITUTE THE ACTION.

(2) THE INSURED MAY REQUEST THAT THE HEALTH SERVICE CORPORATION PAY A PROPORTIONATE SHARE OF THE REASONABLE COSTS OF THE THIRD-PARTY ACTION, INCLUDING ATTORNEY FEES.



1 (3) A HEALTH SERVICE CORPORATION MAY ELECT NOT TO
2 PARTICIPATE IN THE COST OF THE ACTION. IF SUCH AN ELECTION
3 IS MADE, THE HEALTH SERVICE CORPORATION WAIVES 50% OF ANY
4 SUBROGATION RIGHTS GRANTED TO IT BY [SECTION 2].

5 (4) THE HEALTH SERVICE CORPORATION'S RIGHT OF
6 SUBROGATION GRANTED IN [SECTION 2] MAY NOT BE ENFORCED UNTIL
7 THE INJURED INSURED HAS BEEN FULLY COMPENSATED FOR HIS
8 INJURIES.

9 Section 5. Codification instructions. (1) ~~Section-1-is~~
10 SECTIONS 1 AND 3 ARE intended to be codified as an integral
11 part of Title 33, chapter 22, AND TITLE 2, CHAPTER 18, and
12 the provisions of Title 33, chapter 22, AND TITLE 2, CHAPTER
13 18, apply to ~~section-1~~ SECTIONS 1 AND 3.

14 (2) ~~Section-2-is~~ SECTIONS 2 AND 4 ARE intended to be
15 codified as an integral part of Title 33, chapter 30, and
16 the provisions of Title 33, chapter 30, apply to ~~section--2~~
17 SECTIONS 2 AND 4.

18 Section 6. Applicability. This act applies to policies
19 or contracts delivered, issued for delivery, or renewed in
20 this state after October 1, 1987.

-End-

1 SENATE BILL NO. 252

2 INTRODUCED BY REGAN, HIMSL, MILES, GRADY, PISTORIA, MANNING

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING A DISABILITY
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:10 Section 1. Subrogation rights. A disability insurance
11 policy subject to this chapter may contain a provision
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9 PROPORTIONATE SHARE OF THE REASONABLE COSTS OF THE
10 THIRD-PARTY ACTION, INCLUDING ATTORNEY FEES.11 (3) AN INSURER MAY ELECT NOT TO PARTICIPATE IN THE
12 COST OF THE ACTION. IF SUCH AN ELECTION IS MADE, THE
13 INSURER WAIVES 50% OF ANY SUBROGATION RIGHTS GRANTED TO IT
14 BY [SECTION 1].15 (4) THE INSURER'S RIGHT OF SUBROGATION GRANTED IN
16 [SECTION 1] MAY NOT BE ENFORCED UNTIL THE INJURED INSURED
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24 CORPORATION PAY A PROPORTIONATE SHARE OF THE REASONABLE
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4 SUBROGATION RIGHTS GRANTED TO IT BY [SECTION 2].

5 (4) THE HEALTH SERVICE CORPORATION'S RIGHT OF
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