

SENATE BILL NO. 218

INTRODUCED BY KENNEDY, SMITH, BRANDEWIE, LYNCH,
BECK, D. BROWN

IN THE SENATE

JANUARY 20, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & INDUSTRY.

FIRST READING.

FEBRUARY 13, 1993

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

PRINTING REPORT.

FEBRUARY 15, 1993

SECOND READING, DO PASS.

FEBRUARY 16, 1993

ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 41; NOES, 8.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & ECONOMIC DEVELOPMENT.

FIRST READING.

MARCH 13, 1993

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 17, 1993

SECOND READING, CONCURRED IN.

MARCH 19, 1993

THIRD READING, CONCURRED IN.
AYES, 56; NOES, 41.

MARCH 22, 1993

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 24, 1993

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 25, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 218
 2 INTRODUCED BY John E. Keady, Jr., Smith, B. Lewis
 3 Spurk, Beck, Dave Brown
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS
 5 RELATING TO OUT-OF-STATE MAIL SERVICE PHARMACIES; REQUIRING
 6 MONTANA LICENSURE FOR ANY PHARMACIST DISPENSING PRESCRIPTION
 7 DRUGS VIA A MAIL SERVICE PHARMACY LOCATED OUTSIDE THIS STATE
 8 FOR SHIPMENT INTO THIS STATE; REQUIRING APPROVAL OF A
 9 UTILIZATION PLAN FOR THE EMPLOYMENT OF A PHARMACY TECHNICIAN
 10 BY AN OUT-OF-STATE MAIL SERVICE PHARMACY; SPECIFYING THAT A
 11 GROUP HEALTH INSURANCE CONTRACT OR PLAN FOR A UNIT OF STATE
 12 OR LOCAL GOVERNMENT MAY ONLY BE WITH AN OUT-OF-STATE MAIL
 13 SERVICE PHARMACY THAT IS LICENSED IN AND PAYING TAXES TO
 14 THIS STATE; GRANTING PUBLIC EMPLOYEES THE RIGHT TO PATRONIZE
 15 IN-STATE PHARMACIES; AMENDING SECTIONS 2-18-704, 37-7-701,
 16 AND 37-7-703, MCA; AND PROVIDING AN EFFECTIVE DATE."
 17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 **Section 1.** Section 2-18-704, MCA, is amended to read:
 20 "2-18-704. Mandatory provisions. (1) An insurance
 21 contract or plan issued after ~~June 30, 1977~~, under this part
 22 must contain provisions that permit:
 23 (a) the member of a group who retires from active
 24 service under the appropriate retirement provisions provided
 25 by law to remain a member of the group until he the member

1 becomes eligible for medicare under the federal Health
 2 Insurance for the Aged Act, 42 U.S.C. 1395, as amended,
 3 unless he the member is a participant in another group plan
 4 with substantially the same or greater benefits at an
 5 equivalent cost or unless he the member is employed and, by
 6 virtue of that employment, is eligible to participate in
 7 another group plan with substantially the same or greater
 8 benefits at an equivalent cost;

9 (b) the surviving spouse of a member to remain a member
 10 of the group as long as the spouse is eligible for
 11 retirement benefits accrued by the deceased member as
 12 provided by law unless the spouse is eligible for medicare
 13 under the federal Health Insurance for the Aged Act or
 14 unless the spouse has or is eligible for equivalent
 15 insurance coverage as provided in subsection (1)(a);

16 (c) the surviving children of a member to remain
 17 members of the group as long as they are eligible for
 18 retirement benefits accrued by the deceased member as
 19 provided by law unless they have equivalent coverage as
 20 provided in subsection (1)(a) or are eligible for insurance
 21 coverage by virtue of the employment of a surviving parent
 22 or legal guardian.

23 (2) An insurance contract or plan issued after June 30,
 24 1983, under this part must contain the provisions of
 25 subsection (1) for remaining a member of the group and also

1 must permit:

2 (a) the spouse of a retired member the same rights as a
3 surviving spouse under subsection (1)(b);

4 (b) the spouse of a retiring member to convert a group
5 policy as provided in 33-22-508; and

6 (c) continued membership in the group by anyone
7 eligible under the provisions of this section
8 notwithstanding the person's eligibility for medicare under
9 the federal Health Insurance for the Aged Act.

10 (3) (a) A state insurance contract or plan issued after
11 August 31, 1991, must contain provisions that permit a
12 legislator to remain a member of the state's group plan
13 until he the legislator becomes eligible for medicare under
14 the federal Health Insurance for the Aged Act, 42 U.S.C.
15 1395, as amended, if the legislator:

16 (i) terminates service in the legislature and is a
17 vested member of a state retirement system provided by law;
18 and

19 (ii) notifies the department of administration in
20 writing within 90 days of the end of his legislative term.

21 (b) A former legislator may not remain a member of the
22 group plan under the provisions of subsection (3) if he the
23 person:

24 (i) is a member of a plan with substantially the same
25 or greater benefits at an equivalent cost; or

1 (ii) is employed and, by virtue of that employment, is
2 eligible to participate in another group plan with
3 substantially the same or greater benefits at an equivalent
4 cost.

5 (c) A legislator who remains a member of the group
6 under the provisions of subsection (3) and subsequently
7 terminates membership may not rejoin the group unless he the
8 person again serves as a legislator.

9 (4) A person electing to remain a member of the group
10 under subsection (1), (2), or (3) shall pay the full premium
11 for his coverage and for that of his the person's covered
12 dependents.

13 (5) An insurance contract or plan issued under this
14 part after June 30, 1993, that provides for the dispensing
15 of prescription drugs by an out-of-state mail service
16 pharmacy, as defined in 37-7-702:

17 (a) must permit any member of a group to obtain
18 prescription drugs from a pharmacy located in Montana,
19 without financial penalty to the member; and

20 (b) may only be with an out-of-state mail service
21 pharmacy that is licensed by the board under Title 37,
22 chapter 7, part 7, and that is paying corporation license
23 taxes to this state on its apportioned business income as
24 determined under 15-31-305."

25 **Section 2.** Section 37-7-701, MCA, is amended to read:

1 "37-7-701. Legislative declaration. The legislature
 2 recognizes that with the proliferation of alternate methods
 3 of health care delivery, there has arisen among third-party
 4 payers and insurance companies the desire to control the
 5 cost and utilization of pharmacy services through a variety
 6 of mechanisms, including the use of mail service pharmacies
 7 located outside this state. As a result, the legislature
 8 finds and declares that to continue to protect the
 9 consumer-patients of this state, all out-of-state mail
 10 service pharmacies that provide services to this state's
 11 residents must be licensed with the board, shall disclose
 12 specific information about their services, shall meet the
 13 same licensing standards as an in-state pharmacy, and shall
 14 provide pharmacy services at a high level of competence."

15 **Section 3.** Section 37-7-703, MCA, is amended to read:

16 "37-7-703. License requirements. Every Each
 17 out-of-state mail service pharmacy must be licensed by the
 18 board of pharmacy. In order to be licensed by the board to
 19 do business in this state and for annual renewal of its
 20 license, an out-of-state mail service pharmacy:

21 (1) (a) must be licensed and in good standing in the
 22 state in which its dispensing facilities are located; and

23 (b) shall comply with all applicable laws, regulations,
 24 and standards of that state and the United States and, if
 25 requested by the board, provide evidence that it has so

1 complied;

2 (2) shall submit an application in form and content as
 3 determined by the board, including information on ownership
 4 and location of the out-of-state mail service pharmacy and
 5 the identity of a licensed pharmacist licensed by the board
 6 under 37-7-302 and in charge of dispensing prescriptions for
 7 shipment to Montana from the out-of-state mail service
 8 pharmacy; and

9 (3) shall submit a utilization plan for the employment
 10 of pharmacy technicians and obtain approval by the board as
 11 provided in 37-7-307 through 37-7-309; and

12 ~~(3)~~(4) shall pay an initial license fee and annual
 13 renewal fee in an amount to be determined by the board."

14 **NEW SECTION. Section 4.** Effective date. [This act] is
 15 effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0218, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill provides for the licensing of out-of-state mail service pharmacies; requiring Montana licensure for any pharmacist dispensing prescription drugs via a mail service pharmacy located outside of Montana for shipment into this state; requiring approval of a utilization plan for the employment of a pharmacy technician by an out-of-state mail service pharmacy.

ASSUMPTIONS:

1. The proposed law will involve 100 out-of-state mail service pharmacies, pharmacists, and pharmacist technologists. Each of the 100 mail service firms will make application for three individual licenses, requiring 1.5 hours each to process.
2. The Board of Pharmacists, Department of Commerce, will have to license the pharmacies and pharmacists, approve utilization plans for pharmacy technologists, and ensure their licensure in other states is current. About 300 licenses will be issued at \$25 each.
3. The current law budget will be the executive budget for FY94 and FY95.

FISCAL IMPACT:Department of Commerce

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Personal Services	50,962	50,962	0	51,072	51,072	0
Operating Expenses	139,255	146,596	7,341	135,892	142,733	6,841
Capital Outlay	<u>1,179</u>	<u>1,179</u>	<u>0</u>	<u>365</u>	<u>365</u>	<u>0</u>
Total	191,396	198,737	7,341	187,329	194,170	6,841
<u>Revenues:</u>						
Fees (02)	141,440	148,940	7,500	141,440	148,940	7,500
<u>Net Impact:</u>	<u>(49,956)</u>	<u>(49,797)</u>	<u>159</u>	<u>(45,889)</u>	<u>(45,230)</u>	<u>659</u>

David Lewis 1-27-93
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

John Ed Kennedy, Jr. 2/10/93
 JOHN ED KENNEDY, JR., PRIMARY SPONSOR DATE

Fiscal Note for SB0218, as introduced **SB218**

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

SENATE BILL NO. 218

INTRODUCED BY KENNEDY, SMITH, BRANDEWIE, LYNCH,

BECK, D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO OUT-OF-STATE MAIL SERVICE PHARMACIES; REQUIRING MONTANA ~~LICENSE~~ REGISTRATION FOR ANY PHARMACIST DISPENSING PRESCRIPTION DRUGS VIA A MAIL SERVICE PHARMACY LOCATED OUTSIDE THIS STATE FOR SHIPMENT INTO THIS STATE; REQUIRING APPROVAL OF A UTILIZATION PLAN FOR THE EMPLOYMENT OF A PHARMACY TECHNICIAN BY AN OUT-OF-STATE MAIL SERVICE PHARMACY; SPECIFYING THAT A GROUP HEALTH INSURANCE CONTRACT OR PLAN FOR A UNIT OF STATE OR LOCAL GOVERNMENT MAY ONLY BE WITH AN OUT-OF-STATE MAIL SERVICE PHARMACY THAT IS ~~LICENSED~~ IN--AND--PAYING-TAXES-TO REGISTERED AS A FOREIGN CORPORATION IN THIS STATE; PROVIDING DISCIPLINARY PROCEDURES; GRANTING PUBLIC EMPLOYEES THE RIGHT TO PATRONIZE IN-STATE PHARMACIES; AMENDING SECTIONS 2-18-704, 37-7-701, AND 37-7-703, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 2-18-704, MCA, is amended to read:

"2-18-704. Mandatory provisions. (1) An insurance contract or plan issued ~~after June 30, 1977~~, under this part must contain provisions that permit:

(a) the member of a group who retires from active service under the appropriate retirement provisions provided by law to remain a member of the group until he the member becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended, unless he the member is a participant in another group plan with substantially the same or greater benefits at an equivalent cost or unless he the member is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost;

(b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving parent or legal guardian.

(2) An insurance contract or plan issued after June 30, 1983, under this part must contain the provisions of subsection (1) for remaining a member of the group and also must permit:

(a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

(b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

(c) continued membership in the group by anyone eligible under the provisions of this section notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

(3) (a) A state insurance contract or plan issued after August 31, 1991, must contain provisions that permit a legislator to remain a member of the state's group plan until he the legislator becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended, if the legislator:

(i) terminates service in the legislature and is a vested member of a state retirement system provided by law; and

(ii) notifies the department of administration in writing within 90 days of the end of his legislative term.

(b) A former legislator may not remain a member of the group plan under the provisions of subsection (3) if he the

person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost.

(c) A legislator who remains a member of the group under the provisions of subsection (3) and subsequently terminates membership may not rejoin the group unless he the person again serves as a legislator.

(4) A person electing to remain a member of the group under subsection (1), (2), or (3) shall pay the full premium for his coverage and for that of his the person's covered dependents.

(5) An insurance contract or plan issued under this part after June 30, 1993, that provides for the dispensing of prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

(a) must permit any member of a group to obtain prescription drugs from a pharmacy located in Montana, without financial penalty to the member; and

(b) may only be with an out-of-state mail service pharmacy that is licensed by the board under Title 37, chapter 7, part 7, and that is ~~paying-corporation-license~~

~~taxes-to-this-state-on-its-apportioned-business-income-as~~
~~determined-under-15-31-305:~~ REGISTERED IN THIS STATE AS A
FOREIGN CORPORATION."

Section 2. Section 37-7-701, MCA, is amended to read:

"37-7-701. Legislative declaration. The legislature recognizes that with the proliferation of alternate methods of health care delivery, there has arisen among third-party payers and insurance companies the desire to control the cost and utilization of pharmacy services through a variety of mechanisms, including the use of mail service pharmacies located outside this state. As a result, the legislature finds and declares that to continue to protect the consumer-patients of this state, all out-of-state mail service pharmacies that provide services to this state's residents must be licensed with the board, shall disclose specific information about their services, shall meet the same licensing standards as an in-state pharmacy, and shall provide pharmacy services at a high level of competence."

Section 3. Section 37-7-703, MCA, is amended to read:

"37-7-703. License requirements. Every Each out-of-state mail service pharmacy must be licensed by the board of pharmacy. In order to be licensed by the board to do business in this state and for annual renewal of its license, an out-of-state mail service pharmacy:

(1) (a) must be licensed and in good standing in the

state in which its dispensing facilities are located; and

(b) shall comply with all applicable laws, regulations, and standards of that state and the United States and, if requested by the board, provide evidence that it has so complied;

(2) shall submit an application in form and content as determined by the board, including information on ownership and location of the out-of-state mail service pharmacy and the identity of a licensed pharmacist licensed-by-the-board under-37-7-302-and in charge of dispensing prescriptions for shipment to Montana from the out-of-state mail service pharmacy; and

(3) shall submit a utilization plan for the employment of pharmacy technicians THAT HAS A RATIO OF TECHNICIANS TO PHARMACISTS NO GREATER THAN THE MAXIMUM RATIO ALLOWED FOR AN IN-STATE HOSPITAL PHARMACY UNDER THE BOARD'S RULES and SHALL obtain approval by the board as provided in 37-7-307 through 37-7-309; and

(4) SHALL REGISTER EACH PHARMACIST IDENTIFIED UNDER SUBSECTION (2) WITH THE BOARD, WITH PROOF OF THE PHARMACIST'S GOOD STANDING WITH THE LICENSING AUTHORITY IN THE STATE WHERE THE PHARMACIST IS EMPLOYED AND WITH THE PHARMACIST'S WRITTEN COMMITMENT TO COMPLY WITH THE APPROVED UTILIZATION PLAN; AND

~~(3)+(4)~~(5) shall pay an initial license fee and annual

renewal fee in an amount to be determined by the board."

NEW SECTION. SECTION 4. DISCIPLINE OF REGISTERED
PHARMACISTS. THE BOARD MAY, UPON INVESTIGATION AND
OPPORTUNITY FOR HEARING, SUSPEND OR REVOKE THE REGISTRATION
OF A PHARMACIST REGISTERED UNDER 37-7-703 FOR ANY VIOLATION
OF THIS CHAPTER BY THE PHARMACIST.

NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION.
[SECTION 4] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART
OF TITLE 37, CHAPTER 7, PART 7, AND THE PROVISIONS OF TITLE
37, CHAPTER 7, PART 7, APPLY TO [SECTION 4].

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 date. [This act] is
effective July 1, 1993.

-End-

SENATE BILL NO. 218

INTRODUCED BY KENNEDY, SMITH, BRANDEWIE, LYNCH,

BECK, D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO OUT-OF-STATE MAIL SERVICE PHARMACIES; REQUIRING MONTANA LICENSE REGISTRATION FOR ANY PHARMACIST DISPENSING PRESCRIPTION DRUGS VIA A MAIL SERVICE PHARMACY LOCATED OUTSIDE THIS STATE FOR SHIPMENT INTO THIS STATE; REQUIRING APPROVAL OF A UTILIZATION PLAN FOR THE EMPLOYMENT OF A PHARMACY TECHNICIAN BY AN OUT-OF-STATE MAIL SERVICE PHARMACY; SPECIFYING THAT A GROUP HEALTH INSURANCE CONTRACT OR PLAN FOR A UNIT OF STATE OR LOCAL GOVERNMENT MAY ONLY BE WITH AN OUT-OF-STATE MAIL SERVICE PHARMACY THAT IS LICENSED IN--AND--PAYING-TAXES-TO REGISTERED AS A FOREIGN CORPORATION IN THIS STATE; PROVIDING DISCIPLINARY PROCEDURES; GRANTING PUBLIC EMPLOYEES THE RIGHT TO PATRONIZE IN-STATE PHARMACIES; AMENDING SECTIONS 2-18-704, 37-7-701, AND 37-7-703, MCA; AND PROVIDING AN EFFECTIVE DATE."

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(b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving parent or legal guardian.

(2) An insurance contract or plan issued after June 30, 1983, under this part must contain the provisions of subsection (1) for remaining a member of the group and also must permit:

(a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

(b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

(c) continued membership in the group by anyone eligible under the provisions of this section notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

(3) (a) A state insurance contract or plan issued after August 31, 1991, must contain provisions that permit a legislator to remain a member of the state's group plan until he the legislator becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended, if the legislator:

(i) terminates service in the legislature and is a vested member of a state retirement system provided by law; and

(ii) notifies the department of administration in writing within 90 days of the end of his legislative term.

(b) A former legislator may not remain a member of the group plan under the provisions of subsection (3) if he the

person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost.

(c) A legislator who remains a member of the group under the provisions of subsection (3) and subsequently terminates membership may not rejoin the group unless he the person again serves as a legislator.

(4) A person electing to remain a member of the group under subsection (1), (2), or (3) shall pay the full premium for his coverage and for that of his the person's covered dependents.

(5) An insurance contract or plan issued under this part after June 30, 1993, that provides for the dispensing of prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

(a) must permit any member of a group to obtain prescription drugs from a pharmacy located in Montana, without financial penalty to the member; and

(b) may only be with an out-of-state mail service pharmacy that is licensed by the board under Title 37, chapter 7, part 7, and that is paying corporation-license

~~taxes-to-this-state-on-its-apportioned-business-income-as~~
~~determined-under-15-31-305:~~ REGISTERED IN THIS STATE AS A
FOREIGN CORPORATION."

Section 2. Section 37-7-701, MCA, is amended to read:

"37-7-701. Legislative declaration. The legislature recognizes that with the proliferation of alternate methods of health care delivery, there has arisen among third-party payers and insurance companies the desire to control the cost and utilization of pharmacy services through a variety of mechanisms, including the use of mail service pharmacies located outside this state. As a result, the legislature finds and declares that to continue to protect the consumer-patients of this state, all out-of-state mail service pharmacies that provide services to this state's residents must be licensed with the board, shall disclose specific information about their services, shall meet the same licensing standards as an in-state pharmacy, and shall provide pharmacy services at a high level of competence."

Section 3. Section 37-7-703, MCA, is amended to read:

"37-7-703. License requirements. Every Each out-of-state mail service pharmacy must be licensed by the board of pharmacy. In order to be licensed by the board to do business in this state and for annual renewal of its license, an out-of-state mail service pharmacy:

(1) (a) must be licensed and in good standing in the

state in which its dispensing facilities are located; and

(b) shall comply with all applicable laws, regulations, and standards of that state and the United States and, if requested by the board, provide evidence that it has so complied;

(2) shall submit an application in form and content as determined by the board, including information on ownership and location of the out-of-state mail service pharmacy and the identity of a licensed pharmacist licensed-by-the-board under-37-7-302-and in charge of dispensing prescriptions for shipment to Montana from the out-of-state mail service pharmacy; and

(3) shall submit a utilization plan for the employment of pharmacy technicians THAT HAS A RATIO OF TECHNICIANS TO PHARMACISTS NO GREATER THAN THE MAXIMUM RATIO ALLOWED FOR AN IN-STATE HOSPITAL PHARMACY UNDER THE BOARD'S RULES and SHALL obtain approval by the board as provided in 37-7-307 through 37-7-309; and

(4) SHALL REGISTER EACH PHARMACIST IDENTIFIED UNDER SUBSECTION (2) WITH THE BOARD, WITH PROOF OF THE PHARMACIST'S GOOD STANDING WITH THE LICENSING AUTHORITY IN THE STATE WHERE THE PHARMACIST IS EMPLOYED AND WITH THE PHARMACIST'S WRITTEN COMMITMENT TO COMPLY WITH THE APPROVED UTILIZATION PLAN; AND

~~†3†4†5~~ shall pay an initial license fee and annual

1 renewal fee in an amount to be determined by the board."

2 NEW SECTION. SECTION 4. DISCIPLINE OF REGISTERED
3 PHARMACISTS. THE BOARD MAY, UPON INVESTIGATION AND
4 OPPORTUNITY FOR HEARING, SUSPEND OR REVOKE THE REGISTRATION
5 OF A PHARMACIST REGISTERED UNDER 37-7-703 FOR ANY VIOLATION
6 OF THIS CHAPTER BY THE PHARMACIST.

7 NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION.
8 [SECTION 4] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART
9 OF TITLE 37, CHAPTER 7, PART 7, AND THE PROVISIONS OF TITLE
10 37, CHAPTER 7, PART 7, APPLY TO [SECTION 4].

11 NEW SECTION. SECTION 6. SEVERABILITY. IF A PART OF
12 [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE
13 FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS
14 ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART
15 REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE
16 SEVERABLE FROM THE INVALID APPLICATIONS.

17 NEW SECTION. Section 7. Effective date. [This act] is
18 effective July 1, 1993.

-End-

HOUSE STANDING COMMITTEE REPORT

March 16, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 218 (third reading copy - blue) be concurred in as amended.

Signed: _____

Steve Benedict, Chair

And, that such amendments read:

Carried by: Rep. Smith

1. Title, line 9.

Following: "REQUIRING"

Insert: "FILING AND"

2. Title, line 10.

Following: "APPROVAL"

Insert: "IN CERTAIN INSTANCES"

3. Page 4, line 21.

Following: "Montana"

Insert: "that is willing to match the price charged to the group or plan by the mail service pharmacy for a drug"

4. Page 5, line 17.

Strike: "licensing"

Following: "standards"

Insert: "for utilization of technicians"

5. Page 6, line 14.

Following: "technicians"

Insert: "if allowed by the state where the mail service pharmacy is located. Any plan"

6. Page 6, line 15.

Strike: "NO"

7. Page 6, lines 16 and 17.

Following: "IN-STATE" on line 16

Strike: "HOSPITAL"

Insert: "retail"

Following: "RULES" on line 16

Strike: the remainder of line 16 through "approval"

Insert: "must be approved"

Committee Vote: _____

Yes 13, No 5.

590918SC.Hpf

March 16, 1993

Page 2 of 2

8. Page 6, line 18.

Strike: ";

Insert: ".

9. Page 6, line 23.

Strike: "APPROVED"

10. Page 6, line 24.

Following: "PLAN"

Insert: ", if any"

11. Page 7, line 6.

Strike: "CHAPTER"

Insert: "part"

-END-

HOUSE

SB 218

590918SC.Hpf

SENATE BILL NO. 218

INTRODUCED BY KENNEDY, SMITH, BRANDEWIE, LYNCH,

BECK, D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO OUT-OF-STATE MAIL SERVICE PHARMACIES; REQUIRING MONTANA ~~LICENSE~~ REGISTRATION FOR ANY PHARMACIST DISPENSING PRESCRIPTION DRUGS VIA A MAIL SERVICE PHARMACY LOCATED OUTSIDE THIS STATE FOR SHIPMENT INTO THIS STATE; REQUIRING FILING AND APPROVAL IN CERTAIN INSTANCES OF A UTILIZATION PLAN FOR THE EMPLOYMENT OF A PHARMACY TECHNICIAN BY AN OUT-OF-STATE MAIL SERVICE PHARMACY; SPECIFYING THAT A GROUP HEALTH INSURANCE CONTRACT OR PLAN FOR A UNIT OF STATE OR LOCAL GOVERNMENT MAY ONLY BE WITH AN OUT-OF-STATE MAIL SERVICE PHARMACY THAT IS ~~LICENSED-IN-AND-PAYING-TAXES-TO~~ REGISTERED AS A FOREIGN CORPORATION IN THIS STATE; PROVIDING DISCIPLINARY PROCEDURES; GRANTING PUBLIC EMPLOYEES THE RIGHT TO PATRONIZE IN-STATE PHARMACIES; AMENDING SECTIONS 2-18-704, 37-7-701, AND 37-7-703, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 2-18-704, MCA, is amended to read:

"2-18-704. Mandatory provisions. (1) An insurance contract or plan issued ~~after June 30, 1977~~ under this part

must contain provisions that permit:

(a) the member of a group who retires from active service under the appropriate retirement provisions provided by law to remain a member of the group until he the member becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended, unless he the member is a participant in another group plan with substantially the same or greater benefits at an equivalent cost or unless he the member is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost;

(b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving parent

1 or legal guardian.

2 (2) An insurance contract or plan issued after June 30,
3 1983, under this part must contain the provisions of
4 subsection (1) for remaining a member of the group and also
5 must permit:

6 (a) the spouse of a retired member the same rights as a
7 surviving spouse under subsection (1)(b);

8 (b) the spouse of a retiring member to convert a group
9 policy as provided in 33-22-508; and

10 (c) continued membership in the group by anyone
11 eligible under the provisions of this section
12 notwithstanding the person's eligibility for medicare under
13 the federal Health Insurance for the Aged Act.

14 (3) (a) A state insurance contract or plan issued after
15 August 31, 1991, must contain provisions that permit a
16 legislator to remain a member of the state's group plan
17 until he the legislator becomes eligible for medicare under
18 the federal Health Insurance for the Aged Act, 42 U.S.C.
19 1395, as amended, if the legislator:

20 (i) terminates service in the legislature and is a
21 vested member of a state retirement system provided by law;
22 and

23 (ii) notifies the department of administration in
24 writing within 90 days of the end of his legislative term.

25 (b) A former legislator may not remain a member of the

1 group plan under the provisions of subsection (3) if he the
2 person:

3 (i) is a member of a plan with substantially the same
4 or greater benefits at an equivalent cost; or

5 (ii) is employed and, by virtue of that employment, is
6 eligible to participate in another group plan with
7 substantially the same or greater benefits at an equivalent
8 cost.

9 (c) A legislator who remains a member of the group
10 under the provisions of subsection (3) and subsequently
11 terminates membership may not rejoin the group unless he the
12 person again serves as a legislator.

13 (4) A person electing to remain a member of the group
14 under subsection (1), (2), or (3) shall pay the full premium
15 for his coverage and for that of his the person's covered
16 dependents.

17 (5) An insurance contract or plan issued under this
18 part after June 30, 1993, that provides for the dispensing
19 of prescription drugs by an out-of-state mail service
20 pharmacy, as defined in 37-7-702:

21 (a) must permit any member of a group to obtain
22 prescription drugs from a pharmacy located in Montana THAT
23 IS WILLING TO MATCH THE PRICE CHARGED TO THE GROUP OR PLAN
24 BY THE MAIL SERVICE PHARMACY FOR A DRUG, without financial
25 penalty to the member; and

(b) may only be with an out-of-state mail service pharmacy that is licensed by the board under Title 37, chapter 7, part 7, and that is ~~paying--corporation--license taxes--to--this--state-on-its-apportioned-business-income-as determined-under-15-31-305;~~ REGISTERED IN THIS STATE AS A FOREIGN CORPORATION."

Section 2. Section 37-7-701, MCA, is amended to read:

"37-7-701. Legislative declaration. The legislature recognizes that with the proliferation of alternate methods of health care delivery, there has arisen among third-party payers and insurance companies the desire to control the cost and utilization of pharmacy services through a variety of mechanisms, including the use of mail service pharmacies located outside this state. As a result, the legislature finds and declares that to continue to protect the consumer-patients of this state, all out-of-state mail service pharmacies that provide services to this state's residents must be licensed with the board, shall disclose specific information about their services, shall meet the same licensing standards FOR UTILIZATION OF TECHNICIANS as an in-state pharmacy, and shall provide pharmacy services at a high level of competence."

Section 3. Section 37-7-703, MCA, is amended to read:

"37-7-703. License requirements. Every Each out-of-state mail service pharmacy must be licensed by the

board of pharmacy. In order to be licensed by the board to do business in this state and for annual renewal of its license, an out-of-state mail service pharmacy:

(1) (a) must be licensed and in good standing in the state in which its dispensing facilities are located; and

(b) shall comply with all applicable laws, regulations, and standards of that state and the United States and, if requested by the board, provide evidence that it has so complied;

(2) shall submit an application in form and content as determined by the board, including information on ownership and location of the out-of-state mail service pharmacy and the identity of a licensed pharmacist licensed-by-the--board under-37-7-302-and in charge of dispensing prescriptions for shipment to Montana from the out-of-state mail service pharmacy; and

(3) shall submit a utilization plan for the employment of pharmacy technicians IF ALLOWED BY THE STATE WHERE THE MAIL SERVICE PHARMACY IS LOCATED. ANY PLAN THAT HAS A RATIO OF TECHNICIANS TO PHARMACISTS NO GREATER THAN THE MAXIMUM RATIO ALLOWED FOR AN IN-STATE HOSPITAL RETAIL PHARMACY UNDER THE BOARD'S RULES and SHALL obtain-approval MUST BE APPROVED by the board as provided in 37-7-307 through 37-7-309;. and

(4) SHALL REGISTER EACH PHARMACIST IDENTIFIED UNDER SUBSECTION (2) WITH THE BOARD, WITH PROOF OF THE

1 PHARMACIST'S GOOD STANDING WITH THE LICENSING AUTHORITY IN
2 THE STATE WHERE THE PHARMACIST IS EMPLOYED AND WITH THE
3 PHARMACIST'S WRITTEN COMMITMENT TO COMPLY WITH THE ~~APPROVED~~
4 UTILIZATION PLAN, IF ANY; and

5 (3)(4)(5) shall pay an initial license fee and annual
6 renewal fee in an amount to be determined by the board."

7 NEW SECTION. SECTION 4. DISCIPLINE OF REGISTERED
8 PHARMACISTS. THE BOARD MAY, UPON INVESTIGATION AND
9 OPPORTUNITY FOR HEARING, SUSPEND OR REVOKE THE REGISTRATION
10 OF A PHARMACIST REGISTERED UNDER 37-7-703 FOR ANY VIOLATION
11 OF THIS CHAPTER PART BY THE PHARMACIST.

12 NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION.
13 [SECTION 4] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART
14 OF TITLE 37, CHAPTER 7, PART 7, AND THE PROVISIONS OF TITLE
15 37, CHAPTER 7, PART 7, APPLY TO [SECTION 4].

16 NEW SECTION. SECTION 6. SEVERABILITY. IF A PART OF
17 [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE
18 FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS
19 ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART
20 REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE
21 SEVERABLE FROM THE INVALID APPLICATIONS.

22 NEW SECTION. Section 7. Effective date. [This act] is
23 effective July 1, 1993.

-End-