HOUSE BILL NO. 239

INTRODUCED BY C. SMITH, BURNETT, HARRIS, STAHL, JACKSON, OSMUNDSON, HOWARD, BECK, CLARK, MACLAREN, HINKLE, MILBURN, TAYLOR, EDMUNDS, FLYNN, KENNEDY, REGIER, ROSENDALE, O'NEIL, WITTICH, EHLI, HALE, HUTTON, TUTVEDT, BUTTREY, SKEES, LAVIN, KARY, MCNIVEN, KNOX, CONNELL, M. BLASDEL, J. ESSMANN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR REVIEW OF A PROPOSED MANDATED HEALTH INSURANCE BENEFIT, A PROPOSED CHANGE TO A MANDATED BENEFIT, AND EXISTING MANDATED BENEFITS BY THE COMMISSIONER OF INSURANCE; REQUIRING SUBMISSION OF LEGISLATION TO REPEAL EXISTING MANDATED BENEFITS THAT ARE NOT COST-EFFECTIVE; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 5] may be cited as the "Mandated Benefits Review Act".

NEW SECTION. **Section 2. Statement of purpose.** (1) The purpose of [sections 1 through 5] is to provide for a review of mandated health insurance benefits. [Sections 1 through 5] require that a proposed mandated benefit, a proposed change to a mandated benefit, or an amendment to a proposal for a mandated benefit be reviewed by the commissioner. The commissioner shall provide the legislature with information, including an actuarially based review, about the proposal's medical efficacy and cost benefits.

(2) The commissioner shall review existing mandated benefits on a regular basis.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 5], the following definitions apply:

(1) "Health care provider" means:

(a) a person licensed under Title 37 to provide any form of physical or mental health care; or

(b) a health care facility licensed under Title 50, chapter 5.

(2) "Mandated benefit" includes:

(a) a mandated insurance coverage for specific medical or health-related services, treatments, medications, or practices;

(b) a mandated insurance coverage of the services specific to a health care provider;

(c) a mandate requiring a health insurer to offer to prospective customers coverage of a specific service, treatment, or practice;

(d) a mandated reimbursement amount to specific health care providers; or

(e) an expansion of a mandate described in subsections (2)(a) through (2)(d).

NEW SECTION. **Section 4. Mandated health benefits review.** (1) A proposal for a mandated benefit, a proposed change to an existing mandated benefit, or an amendment to a proposal for a mandated benefit must be evaluated for medical efficacy and financial impact. Before a proposal described in this subsection may be introduced as legislation before the legislature, the proposal must be submitted for review to the commissioner by the party seeking the mandate or the legislator requesting the legislation.

(2) (a) The commissioner shall conduct an actuarial analysis to:

(i) review the proposal or amendment after complete documentation is submitted; and

(ii) ensure that appropriate assumptions are used to accurately demonstrate the financial impact of the proposal.

(b) The commissioner shall include the results of the actuarial review in the report required under this section.

(3) The commissioner shall review the documentation submitted with the proposed legislation and issue a report within 30 days that must accompany any proposed legislation and must include information as to whether:

(a) the information provided is complete;

(b) the research cited meets professional standards;

(c) all relevant research has been included; and

(d) the conclusions and interpretations that are drawn from the evidence are consistent with the data presented.

(4) In providing the report, the commissioner shall apply the following guidelines to determine the adequacy of the information presented in the report:

(a) if the insurance coverage is not generally in place, to what extent the lack of coverage results in

financial hardship;

(b) the extent of the demand for the proposed mandated benefit from the public and in collective bargaining negotiations and the extent to which voluntary coverage of the proposed benefit is available;

(c) in consultation with relevant medical experts, the medical efficacy as demonstrated by the following evidence:

(i) for mandated coverage of a particular therapy, the results of at least one clinical trial THAT IS RECOGNIZED BY THE NATIONAL INSTITUTES OF HEALTH OR ANOTHER APPLICABLE GOVERNMENTAL BODY demonstrating the medical consequences of the therapy compared to no therapy or to alternative therapies and the results of any other relevant clinical research; or

(ii) for mandated coverage of a specific class of health care providers or a medical specialty, the results of at least one professionally acceptable, controlled trial demonstrating the medical results achieved by the specific class of provider or medical specialty relative to the health care providers already covered and the results of any other relevant clinical research; and

(d) the financial impact as evidenced by factors that include but are not limited to the extent to which:

(i) insurance coverage of the mandated benefit will increase or decrease the cost of a treatment or service;

(ii) the same or similar mandated benefits have affected charges, costs, use, and payments in other states;

(iii) the mandated benefit will increase the appropriate use of the treatment or service;

(iv) the mandated benefit will be a substitute for more or less expensive treatments or services;

(v) the mandated benefit will increase or decrease the administrative expenses of third-party payors and the premium and administrative expenses of policyholders; and

(vi) there will be a financial impact on small employers, medium-sized employers, large employers, the state employee health benefit plan, the comprehensive health association, the public employees' retirement system, and purchasers of individual coverage.

NEW SECTION. **Section 5. Review of existing mandated benefits.** (1) The commissioner shall biennially review 20% of existing state-mandated benefits using the criteria contained in [section 4]. The commissioner shall report the findings to the economic affairs interim committee, the speaker of the house of representatives, the president of the senate, and the office of budget and program planning by September 15 of

each even-numbered year.

(2) The report must recommend which of the mandated benefits should be repealed because the cost of the mandated benefit exceeds the medical benefit provided. The interim committee shall submit legislation to repeal mandated benefits recommended for repeal by the commissioner.

NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 33, chapter 22, and the provisions of Title 33, chapter 22, apply to [sections 1 through 5].

NEW SECTION. **Section 7. 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 8. Effective date.** [This act] is effective July 1, 2011.

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