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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993

— ● —

# ENROLLED

*Committee Substitute for*

HOUSE BILL No. *2181*

(By Delegates *Phillips, Gallagher, et al -*)

— ● —

Passed *April 9,* ..... 1993

In Effect *- from -* ..... Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2181**

(By DELEGATES PHILLIPS, GALLAGHER, P. WHITE,  
KESSELL, DOUGLAS, MICHAEL AND WILLIAMS)

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[Passed April 9, 1993; in effect from passage.]

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AN ACT to amend and reenact section fourteen, article sixteen-a; section four, article twenty-four; section six, article twenty-five; and section twenty-four, article twenty-five-a, all of chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to advance notice by insurers to covered employees, members, spouses, children or dependents of conversion rights upon termination of the policy and the requirement that certain health care providers, insurers, health care corporations and other such agencies comply with the provisions of article sixteen-a regarding group health insurance conversion.

*Be it enacted by the Legislature of West Virginia:*

That section fourteen, article sixteen-a; section four, article twenty-four; section six, article twenty-five; and section twenty-four, article twenty-five-a, all of chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 16A. GROUP HEALTH INSURANCE CONVERSION.**

**§33-16A-14. Benefit levels; election to provide group**

**coverage; notification of conversion privilege; policy delivered outside state.**

1 (a) If the benefit levels required in section nine of this  
2 article exceed the benefit levels provided under the  
3 group policy, the conversion policy may offer benefits  
4 which are substantially similar to those provided under  
5 the group policy in lieu of those required in section nine.

6 (b) The insurer may elect to provide group insurance  
7 coverage in lieu of the issuance of a converted individual  
8 policy.

9 (c) The insurer, prior to terminating the policy for any  
10 reason, shall notify each employee or member, or such  
11 employee's or member's spouse, child or dependent  
12 entitled to the conversion privilege under this article, at  
13 least sixty days in advance of the termination, in  
14 writing, of the pending termination. The notice shall  
15 inform the employee or member of the conversion  
16 privilege provided in this article.

17 (d) A notification of the conversion privilege shall also  
18 be included in each certificate of coverage.

19 (e) A converted policy which is delivered outside this  
20 state must be on a form which could be delivered in such  
21 other jurisdiction as a converted policy had the group  
22 policy been issued in that jurisdiction.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL  
SERVICE CORPORATIONS, DENTAL SERVICE  
CORPORATIONS AND HEALTH SERVICE  
CORPORATIONS.**

**§33-24-4. Exemptions; applicability of insurance laws.**

1 Every corporation defined in section two of this article  
2 is hereby declared to be a scientific, nonprofit institution  
3 and exempt from the payment of all property and other  
4 taxes. Every corporation, to the same extent the  
5 provisions are applicable to insurers transacting similar  
6 kinds of insurance and not inconsistent with the  
7 provisions of this article, shall be governed by and be  
8 subject to the provisions as hereinbelow indicated, of the  
9 following articles of this chapter: Article two (insurance  
10 commissioner), except that, under section nine of said

11 article, examinations shall be conducted at least once  
12 every four years; article four (general provisions), except  
13 that section sixteen of said article shall not be applicable  
14 thereto; article six, section thirty-four (fee for form and  
15 rate filing); article six-c (guaranteed loss ratio); article  
16 seven (assets and liabilities); article eleven (unfair trade  
17 practices); article twelve (agents, brokers and solicitors),  
18 except that the agent's license fee shall be five dollars;  
19 section fourteen, article fifteen (individual accident and  
20 sickness insurance); article fifteen-a (long-term care  
21 insurance); section three, article sixteen (required policy  
22 provisions); section three-a, article sixteen (mental  
23 illness); section three-c, article sixteen (group accident  
24 and sickness insurance); section three-d, article sixteen  
25 (medicare supplement insurance); section three-f, article  
26 sixteen (treatment of temporomandibular joint disorder  
27 and craniomandibular disorder); article sixteen-a (group  
28 health insurance conversion); article sixteen-c (small  
29 employer group policies); article sixteen-d (marketing  
30 and rate practices for small employers); article twenty-  
31 six-a (West Virginia life and health insurance guaranty  
32 association act), after the first day of October, one  
33 thousand nine hundred ninety-one; article twenty-seven  
34 (insurance holding company systems); article twenty-  
35 eight (individual accident and sickness insurance  
36 minimum standards); article thirty-three (annual  
37 audited financial report); article thirty-four (administra-  
38 tive supervision); article thirty-four-a (standards and  
39 commissioner's authority for companies deemed to be in  
40 hazardous financial condition); article thirty-five  
41 (criminal sanctions for failure to report impairment);  
42 and article thirty-seven (managing general agents); and  
43 no other provision of this chapter may apply to these  
44 corporations unless specifically made applicable by the  
45 provisions of this article. If, however, the corporation is  
46 converted into a corporation organized for a pecuniary  
47 profit or if it transacts business without having obtained  
48 a license as required by section five of this article, it  
49 shall thereupon forfeit its right to these exemptions.

**ARTICLE 25. HEALTH CARE CORPORATIONS.**

**§33-25-6. Supervision and regulation by insurance com-**

**missioner; exemption from insurance laws.**

1 Corporations organized under this article are subject  
2 to supervision and regulation of the insurance commis-  
3 sioner. The corporations organized under this article, to  
4 the same extent these provisions are applicable to  
5 insurers transacting similar kinds of insurance and not  
6 inconsistent with the provisions of this article, shall be  
7 governed by and be subject to the provisions as  
8 hereinbelow indicated, of the following articles of this  
9 chapter: Article four (general provisions), except that  
10 section sixteen of said article shall not be applicable  
11 thereto; article six-c (guaranteed loss ratio); article  
12 seven (assets and liabilities); article eight (investments);  
13 article ten (rehabilitation and liquidation); section  
14 fourteen, article fifteen (individual accident and sick-  
15 ness insurance); section three, article sixteen (required  
16 policy provisions); article sixteen-a (group health  
17 insurance conversion); article sixteen-c (small employer  
18 group policies); article sixteen-d (marketing and rate  
19 practices for small employers); article twenty-six-a  
20 (West Virginia life and health insurance guaranty  
21 association act); article twenty-seven (insurance holding  
22 company systems); article thirty-three (annual audited  
23 financial report); article thirty-four-a (standards and  
24 commissioner's authority for companies deemed to be in  
25 hazardous financial condition); article thirty-five  
26 (criminal sanctions for failure to report impairment);  
27 and article thirty-seven (managing general agents); and  
28 no other provision of this chapter may apply to these  
29 corporations unless specifically made applicable by the  
30 provisions of this article.

**ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

**§33-25A-24. Statutory construction and relationship to other laws.**

1 (a) Except as otherwise provided in this article,  
2 provisions of the insurance laws and provisions of  
3 hospital or medical service corporation laws shall not be  
4 applicable to any health maintenance organization  
5 granted a certificate of authority under this article. This  
6 provision shall not apply to an insurer or hospital or

7 medical service corporation licensed and regulated  
8 pursuant to the insurance laws or the hospital or  
9 medical service corporation laws of this state except  
10 with respect to its health maintenance corporation  
11 activities authorized and regulated pursuant to this  
12 article.

13 (b) Factually accurate advertising or solicitation  
14 regarding the range of services provided, the premiums  
15 and copayments charged, the sites of services and hours  
16 of operation, and any other quantifiable, nonprofessional  
17 aspects of its operation by a health maintenance  
18 organization granted a certificate of authority, or its  
19 representative shall not be construed to violate any  
20 provision of law relating to solicitation or advertising by  
21 health professions: *Provided*, That nothing contained  
22 herein shall be construed as authorizing any solicitation  
23 or advertising which identifies or refers to any individ-  
24 ual provider, or makes any qualitative judgment  
25 concerning any provider.

26 (c) Any health maintenance organization authorized  
27 under this article shall not be deemed to be practicing  
28 medicine and shall be exempt from the provision of  
29 chapter thirty of this code, relating to the practice of  
30 medicine.

31 (d) The provisions of section fifteen, article four  
32 (general provisions), article six-c (guaranteed loss ratio),  
33 article seven (assets and liabilities), article eight  
34 (investments), section fourteen, article fifteen (individ-  
35 ual accident and sickness insurance), article fifteen-b  
36 (uniform health care administration act), section three-  
37 f, article sixteen (treatment of temporomandibular  
38 disorder and craniomandibular disorder), article six-  
39 teen-a (group health insurance conversion), article  
40 sixteen-c (small employer group policies), article  
41 sixteen-d (marketing and rate practices for small  
42 employers), article twenty-seven (insurance holding  
43 company systems), article thirty-four-a (standards and  
44 commissioner's authority for companies deemed to be in  
45 hazardous financial condition), article thirty-five  
46 (criminal sanctions for failure to report impairment)  
47 and article thirty-seven (managing general agents) shall

48 be applicable to any health maintenance organization  
49 granted a certificate of authority under this article.

50 (e) Any long-term care insurance policy delivered or  
51 issued for delivery in this state by a health maintenance  
52 organization shall comply with the provisions of article  
53 fifteen-a of this chapter.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Handwritten Signature]*  
Chairman Senate Committee

*[Handwritten Signature]*  
Ernest C. Moore  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*[Handwritten Signature]*  
Clerk of the Senate

*[Handwritten Signature]*  
Clerk of the House of Delegates

*[Handwritten Signature]*  
President of the Senate

*[Handwritten Signature]*  
Speaker of the House of Delegates

The within is approved this the 30<sup>th</sup> day of April 1993.

*[Handwritten Signature]*  
Governor



PRESENTED TO THE

GOVERNOR

Date 4/22/93

11:23 am