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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1993

ENROLLED
Committee Substitute for
SENATE BILL NO. 326

(By Senators *Minard & Helmick*)

PASSED April 5, 1993
In Effect 90 days from Passage

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 326

(SENATORS MINARD AND HELMICK, *original sponsors*)

[Passed April 5, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article sixteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section four, article twenty-four of said chapter; to amend and reenact section six, article twenty-five of said chapter; and to amend and reenact section twenty-four, article twenty-five-a of said chapter, all relating to the promulgation of rules for minimum policy provisions on group accident and sickness coverage; applying the same to hospital service corporations, medical service corporations, dental service corporations, health service corporations, health care corporations and health maintenance organizations.

Be it enacted by the Legislature of West Virginia:

That section three, article sixteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section four, article twenty-four of said chapter be amended and reenacted; that section six, article twenty-five

of said chapter be amended and reenacted; and that section twenty-four, article twenty-five-a of said chapter be amended and reenacted, all to read as follows:

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3. Required policy provisions.

1 Each such policy hereafter delivered or issued for
2 delivery in this state shall contain in substance the
3 following provisions:

4 (a) A provision that the policy, the application of the
5 policyholder, a copy of which shall be attached to such
6 policy, and the individual applications, if any, submit-
7 ted in connection with such policy by the employees or
8 members, shall constitute the entire contract between
9 the parties, and that all statements made by any
10 applicant or applicants shall be deemed representa-
11 tions and not warranties, and that no such statement
12 shall void the insurance or reduce benefits thereunder
13 unless contained in a written application.

14 (b) A provision that the insurer will furnish to the
15 policyholder, for delivery to each employee or
16 member of the insured group, an individual certificate
17 setting forth in substance the essential features of the
18 insurance coverage of such employee or member and
19 to whom benefits thereunder are payable. If depend-
20 ents are included in the coverage, only one certificate
21 need be issued for each family unit.

22 (c) A provision that all new employees or members,
23 as the case may be, in the groups or classes eligible for
24 insurance, shall from time to time be added to such
25 groups or classes eligible to obtain such insurance in
26 accordance with the terms of the policy.

27 (d) No provision relative to notice or proof of loss or
28 the time for paying benefits or the time within which
29 suit may be brought upon the policy shall be less
30 favorable to the insured than would be permitted in
31 the case of an individual policy by the provisions set
32 forth in article fifteen of this chapter.

33 (e) A provision that all members in groups or classes

34 eligible for insurance provided through an employee's
35 group plan shall be permitted to pay the premiums at
36 the same group rate and receive the same coverages
37 for a period not to exceed eighteen months when they
38 are involuntarily laid off from work.

39 (f) Such further provisions establishing group acci-
40 dent and sickness minimum policy coverage standards
41 as the commissioner shall promulgate by rule pursu-
42 ant to chapter twenty-nine-a of this code.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SER-
VICE CORPORATIONS, DENTAL SERVICE CORPOR-
ATIONS AND HEALTH SERVICE CORPORATIONS.**

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

1 Every corporation defined in section two of this
2 article is hereby declared to be a scientific, nonprofit
3 institution and exempt from the payment of all
4 property and other taxes. Every corporation, to the
5 same extent the provisions are applicable to insurers
6 transacting similar kinds of insurance and not incon-
7 sistent with the provisions of this article, shall be
8 governed by and be subject to the provisions as
9 hereinbelow indicated, of the following articles of this
10 chapter: Article two (insurance commissioner), except
11 that, under section nine of said article, examinations
12 shall be conducted at least once every four years;
13 article four (general provisions), except that section
14 sixteen of said article shall not be applicable thereto;
15 article six, section thirty-four (fee for form and rate
16 filing); article six-c (guaranteed loss ratio); article
17 seven (assets and liabilities); article eleven (unfair
18 trade practices); article twelve (agents, brokers and
19 solicitors), except that the agent's license fee shall be
20 five dollars; section fourteen, article fifteen (individual
21 accident and sickness insurance); article fifteen-a
22 (long-term care insurance); section three, article
23 sixteen (required policy provisions); section three-a,
24 article sixteen (mental illness); section three-c, article
25 sixteen (group accident and sickness insurance);
26 section three-d, article sixteen (medicare supplement
27 insurance); section three-f, article sixteen (treatment

28 of temporomandibular joint disorder and cranioman-
29 dibular disorder); article sixteen-a (group health
30 insurance conversion); article sixteen-c (small employ-
31 er group policies); article sixteen-d (marketing and
32 rate practices for small employers); article twenty-six-
33 a (West Virginia life and health insurance guaranty
34 association act), after the first day of October, one
35 thousand nine hundred ninety-one; article twenty-
36 seven (insurance holding company systems); article
37 twenty-eight (individual accident and sickness insur-
38 ance minimum standards); article thirty-three (annual
39 audited financial report); article thirty-four (adminis-
40 trative supervision); article thirty-four-a (standards
41 and commissioner's authority for companies deemed
42 to be in hazardous financial condition); article thirty-
43 five (criminal sanctions for failure to report impair-
44 ment); and article thirty-seven (managing general
45 agents); and no other provision of this chapter may
46 apply to these corporations unless specifically made
47 applicable by the provisions of this article. If, however,
48 the corporation is converted into a corporation organ-
49 ized for a pecuniary profit or if it transacts business
50 without having obtained a license as required by
51 section five of this article, it shall thereupon forfeit its
52 right to these exemptions.

ARTICLE 25. HEALTH CARE CORPORATIONS.

**§33-25-6. Supervision and regulation by insurance commis-
sioner; exemption from insurance laws.**

1 Corporations organized under this article are subject
2 to supervision and regulation of the insurance com-
3 missioner. The corporations organized under this
4 article, to the same extent these provisions are appli-
5 cable to insurers transacting similar kinds of insurance
6 and not inconsistent with the provisions of this article,
7 shall be governed by and be subject to the provisions
8 as hereinbelow indicated, of the following articles of
9 this chapter: Article four (general provisions), except
10 that section sixteen of said article shall not be applica-
11 ble thereto; article six-c (guaranteed loss ratio); article
12 seven (assets and liabilities); article eight (invest-
13 ments); article ten (rehabilitation and liquidation);

14 section fourteen, article fifteen (individual accident
 15 and sickness insurance); section three, article sixteen
 16 (required policy provisions); article sixteen-a (group
 17 health insurance conversion); article sixteen-c (small
 18 employer group policies); article sixteen-d (marketing
 19 and rate practices for small employers); article twenty-
 20 six-a (West Virginia life and health insurance guaranty
 21 association act); article twenty-seven (insurance hold-
 22 ing company systems); article thirty-three (annual
 23 audited financial report); article thirty-four-a (stan-
 24 dards and commissioner's authority for companies
 25 deemed to be in hazardous financial condition); article
 26 thirty-five (criminal sanctions for failure to report
 27 impairment); and article thirty-seven (managing
 28 general agents); and no other provision of this chapter
 29 may apply to these corporations unless specifically
 30 made applicable by the 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 law and provisions of
 3 hospital or medical service corporation laws shall not
 4 be applicable to any health maintenance organization
 5 granted a certificate of authority under this article.
 6 This provision shall not apply to an insurer or hospital
 7 or 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 premi-
 15 ums and copayments charged, the sites of services and
 16 hours of operation, and any other quantifiable, non-
 17 professional aspects of its operation by a health
 18 maintenance organization granted a certificate of
 19 authority, or its representative shall not be construed
 20 to violate any provision of law relating to solicitation

21 or advertising by health professions: *Provided*, That
22 nothing contained herein shall be construed as autho-
23 rizing any solicitation or advertising which identifies
24 or refers to any individual provider or makes any
25 qualitative judgment 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
33 ratio); 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
37 three, article sixteen (required policy provisions);
38 section three-f, article sixteen (treatment of temporo-
39 mandibular disorder and craniomandibular disorder);
40 article sixteen-a (group health insurance conversion);
41 article sixteen-c (small employer group policies);
42 article sixteen-d (marketing and rate practices for
43 small employers); article twenty-seven (insurance
44 holding company systems); article thirty-four-a (stan-
45 dards and commissioner's authority for companies
46 deemed to be in hazardous financial condition); article
47 thirty-five (criminal sanctions for failure to report
48 impairment) and article thirty-seven (managing
49 general agents) shall be applicable to any health
50 maintenance organization granted a certificate of
51 authority under this article.

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

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *13th*
day of *April*, 1993.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/7/93

Time 2:51 pm