

SB 312

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



## ENROLLED

*COMMITTEE SUBSTITUTE FOR*

SENATE BILL NO. 312

(By Senator MACNAUGHTAN, ET AL)



PASSED MARCH 9, 1996

In Effect NINETY DAYS FROM Passage

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SECRETARY OF STATE

## ENROLLED

COMMITTEE SUBSTITUTE  
FOR

### Senate Bill No. 312

(SENATORS MACNAUGHTAN, BOWMAN, BLATNIK, GRUBB,  
ROSS, ANDERSON, SCOTT, WAGNER, PLYMALE, SHARPE AND  
MANCHIN, *original sponsors*)

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[Passed March 9, 1996; in effect ninety days from passage.]

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AN ACT to amend chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article fifteen-c; that article sixteen of said chapter be amended by adding thereto a new section, designated section sixteen; 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 requiring insurance companies to cover the complete treatment and management of diabetes for their insureds to the same extent that they provide coverage for the complete treatment of other diseases; and relating generally to health maintenance organizations.

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

That chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article fifteen-c; that article sixteen of said chapter be amended by adding thereto a new section, designated section sixteen; 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 15C. DIABETES INSURANCE.**

**§33-15C-1. Insurance for diabetics.**

1 (a) Except as provided in section six, article fifteen of  
2 this chapter, any policy which provides major medical or  
3 similar comprehensive-type medical coverage shall  
4 include coverage for the following equipment and  
5 supplies for the treatment and/or management of diabe-  
6 tes for both insulin dependent and noninsulin dependent  
7 persons with diabetes and those with gestational diabe-  
8 tes, if medically necessary and prescribed by a licensed  
9 physician: Blood glucose monitors, monitor supplies,  
10 insulin, injection aids, syringes, insulin infusion devices,  
11 pharmacological agents for controlling blood sugar,  
12 orthotics and any additional items as promulgated by  
13 rule, pursuant to the provisions of chapter twenty-nine-a  
14 of this code, by the insurance commissioner, with the  
15 advice of the commissioner of the bureau of public  
16 health.

17 (b) All policies affected by the provisions of this  
18 section shall also include coverage for diabetes  
19 self-management education to ensure that persons with  
20 diabetes are educated as to the proper self-management  
21 and treatment of their diabetes, including information on  
22 proper diets. Coverage for self-management education  
23 and education relating to diet and prescribed by a  
24 licensed physician shall be limited to: (1) Visits medically  
25 necessary upon the diagnosis of diabetes; (2) visits under  
26 circumstances whereby a physician identifies or diagno-

27 ses a significant change in the patient's symptoms or  
28 conditions that necessitates changes in a patient's  
29 self-management; and (3) where a new medication or  
30 therapeutic process relating to the person's treatment  
31 and/or management of diabetes has been identified as  
32 medically necessary by a licensed physician: *Provided*,  
33 That coverage for reeducation or refresher education  
34 shall be limited to one hundred dollars annually.

35 (c) The education may be provided by the physician as  
36 part of an office visit for diabetes diagnosis or treatment,  
37 or by a licensed pharmacist for instructing and monitor-  
38 ing a patient regarding the proper use of covered equip-  
39 ment, supplies and medications prescribed by a licensed  
40 physician, or by a certified diabetes educator certified by  
41 a national diabetes educator certification program, or  
42 registered dietitian registered by a nationally recognized  
43 professional association of dietitians upon the referral of  
44 a physician: *Provided*, That such national diabetes  
45 education certification program or nationally recognized  
46 professional association of dietitians has been certified  
47 to the commissioner of insurance by the commissioner of  
48 the bureau of public health.

49 (d) Any deductible or coinsurance billed for any service  
50 as provided in this section shall apply on an equal basis  
51 with all other coverages provided by the insurer but not  
52 included in this section.

**ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

**§33-16-16. Insurance for diabetics.**

1 (a) Except as provided in section six, article fifteen of  
2 this chapter, any policy which provides major medical or  
3 similar comprehensive-type medical coverage shall  
4 include coverage for the following equipment and  
5 supplies for the treatment and/or management of diabe-  
6 tes for both insulin dependent and noninsulin dependent  
7 persons with diabetes and those with gestational diabe-  
8 tes, if medically necessary and prescribed by a licensed  
9 physician: Blood glucose monitors, monitor supplies,

10 insulin, injection aids, syringes, insulin infusion devices,  
11 pharmacological agents for controlling blood sugar,  
12 orthotics and any additional items as promulgated by  
13 rule, pursuant to the provisions of chapter twenty-nine-a  
14 of this code, by the insurance commissioner, with the  
15 advice of the commissioner of the bureau of public  
16 health.

17 (b) All policies affected by the provisions of this  
18 section shall also include coverage for diabetes  
19 self-management education to ensure that persons with  
20 diabetes are educated as to the proper self-management  
21 and treatment of their diabetes, including information on  
22 proper diets. Coverage for self-management education  
23 and education relating to diet and prescribed by a  
24 licensed physician shall be limited to: (1) Visits medically  
25 necessary upon the diagnosis of diabetes; (2) visits under  
26 circumstances whereby a physician identifies or diagno-  
27 ses a significant change in the patient's symptoms or  
28 conditions that necessitates changes in a patient's  
29 self-management; and (3) where a new medication or  
30 therapeutic process relating to the person's treatment  
31 and/or management of diabetes has been identified as  
32 medically necessary by a licensed physician: *Provided,*  
33 That coverage for reeducation or refresher education  
34 shall be limited to one hundred dollars annually.

35 (c) The education may be provided by the physician as  
36 part of an office visit for diabetes diagnosis or treatment,  
37 or by a certified diabetes educator certified by a national  
38 diabetes educator certification program, or registered  
39 dietitian registered by a nationally recognized profes-  
40 sional association of dietitians upon the referral of a  
41 physician: *Provided,* That such national diabetes  
42 education certification program or nationally recognized  
43 professional association of dieticians has been certified  
44 to the commissioner of insurance by the commissioner of  
45 the bureau of public health.

46 (d) Any deductible or coinsurance billed for any service  
47 as provided in this section shall apply on an equal basis

48 with all other coverages provided by the insurer but not  
49 included in this section.

**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 provi-  
5 sions are applicable to insurers transacting similar kinds  
6 of insurance and not inconsistent with the provisions of  
7 this article, shall be governed by and be subject to the  
8 provisions as hereinbelow indicated, of the following  
9 articles of this chapter: Article two (insurance commis-  
10 sioner), except that, under section nine of said article,  
11 examinations shall be conducted at least once every four  
12 years; article four (general provisions), except that  
13 section sixteen of said article shall not be applicable  
14 thereto; section thirty-four, article six (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); section sixteen, article fifteen  
21 (coverage of children); section eighteen, article fifteen  
22 (equal treatment of state agency); section nineteen,  
23 article fifteen (coordination of benefits with medicaid);  
24 article fifteen-a (long-term care insurance); article  
25 fifteen-c (diabetes insurance); section three, article  
26 sixteen (required policy provisions); section three-a,  
27 article sixteen (mental illness); section three-c, article  
28 sixteen (group accident and sickness insurance); section  
29 three-d, article sixteen (medicare supplement insurance);  
30 section three-f, article sixteen (treatment of temporo-  
31 mandibular joint disorder and craniomandibular disor-  
32 der); section eleven, article sixteen (coverage of chil-  
33 dren); section thirteen, article sixteen (equal treatment

34 of state agency); section fourteen, article sixteen (coordi-  
 35 nation of benefits with medicaid); section sixteen,  
 36 article sixteen (diabetes insurance); article sixteen-a  
 37 (group health insurance conversion); article sixteen-c  
 38 (small employer group policies); article sixteen-d (mar-  
 39 keting and rate practices for small employers); article  
 40 twenty-six-a (West Virginia life and health insurance  
 41 guaranty association act), after the first day of October,  
 42 one thousand nine hundred ninety-one; article twenty-  
 43 seven (insurance holding company systems); article  
 44 twenty-eight (individual accident and sickness insurance  
 45 minimum standards); article thirty-three (annual audited  
 46 financial report); article thirty-four (administrative  
 47 supervision); article thirty-four-a (standards and com-  
 48 missioner's authority for companies deemed to be in  
 49 hazardous financial condition); article thirty-five  
 50 (criminal sanctions for failure to report impairment); and  
 51 article thirty-seven (managing general agents); and no  
 52 other provision of this chapter may apply to these  
 53 corporations unless specifically made applicable by the  
 54 provisions of this article. If, however, the corporation is  
 55 converted into a corporation organized for a pecuniary  
 56 profit or if it transacts business without having obtained  
 57 a license as required by section five of this article, it  
 58 shall thereupon forfeit its 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 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 herein-  
 8 below indicated of the following articles of this chapter:  
 9 Article four (general provisions), except that section  
 10 sixteen of said article shall not be applicable thereto;

11 article six-c (guaranteed loss ratio); article seven (assets  
 12 and liabilities); article eight (investments); article ten  
 13 (rehabilitation and liquidation); section fourteen, article  
 14 fifteen (individual accident and sickness insurance);  
 15 section sixteen, article fifteen (coverage of children);  
 16 section eighteen, article fifteen (equal treatment of state  
 17 agency); section nineteen, article fifteen (coordination of  
 18 benefits with medicaid); article fifteen-c, (diabetes  
 19 insurance); section three, article sixteen (required policy  
 20 provisions); section eleven, article sixteen (coverage of  
 21 children); section thirteen, article sixteen (equal treat-  
 22 ment of state agency); section fourteen, article sixteen  
 23 (coordination of benefits with medicaid); section sixteen,  
 24 article sixteen, (diabetes insurance); article sixteen-a  
 25 (group health insurance conversion); article sixteen-c  
 26 (small employer group policies); article sixteen-d (mar-  
 27 keting and rate practices for small employers); article  
 28 twenty-six-a (West Virginia life and health insurance  
 29 guaranty association act); article twenty-seven (insur-  
 30 ance holding company systems); article thirty-three  
 31 (annual audited financial report); article thirty-four-a  
 32 (standards and commissioner's authority for companies  
 33 deemed to be in hazardous financial condition); article  
 34 thirty-five (criminal sanctions for failure to report  
 35 impairment); and article thirty-seven (managing general  
 36 agents); and no other provision of this chapter may apply  
 37 to these corporations unless specifically made applicable  
 38 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, provi-  
 2 sions of the insurance laws and provisions of hospital or  
 3 medical service corporation laws are not applicable to  
 4 any health maintenance organization granted a certifi-  
 5 cate of authority under this article. The provisions of  
 6 this article 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 medical  
9 service corporation laws of this state except with respect  
10 to its health maintenance corporation activities autho-  
11 rized and regulated pursuant to this article. The provi-  
12 sions of this article shall not apply to an entity properly  
13 licensed by a reciprocal state to provide health care  
14 services to employer groups, where residents of West  
15 Virginia are members of an employer group, and the  
16 employer group contract is entered into in the reciprocal  
17 state. For purposes of this subsection, a "reciprocal  
18 state" means a state which physically borders West  
19 Virginia and which has subscriber or enrolled hold  
20 harmless requirements substantially similar to those set  
21 out in section seven-a of this article.

22 (b) Factually accurate advertising or solicitation  
23 regarding the range of services provided, the premiums  
24 and copayments charged, the sites of services and hours  
25 of operation, and any other quantifiable, nonprofessional  
26 aspects of its operation by a health maintenance organi-  
27 zation granted a certificate of authority, or its represen-  
28 tative shall not be construed to violate any provision of  
29 law relating to solicitation or advertising by health  
30 professions: *Provided*, That nothing contained in this  
31 subsection shall be construed as authorizing any sollicita-  
32 tion or advertising which identifies or refers to any  
33 individual provider or makes any qualitative judgment  
34 concerning any provider.

35 (c) Any health maintenance organization authorized  
36 under this article shall not be considered to be practicing  
37 medicine and is exempt from the provision of chapter  
38 thirty of this code, relating to the practice of medicine.

39 (d) The provisions of section fifteen, article four  
40 (general provisions); section seventeen, article six  
41 (noncomplying forms); article six-c (guaranteed loss  
42 ratio); article seven (assets and liabilities); article eight  
43 (investments); article nine (administration of deposits);  
44 article twelve (agents, brokers, solicitors and excess  
45 line); section fourteen, article fifteen (individual accident

46 and sickness insurance); section sixteen, article fifteen  
47 (coverage of children); section eighteen, article fifteen  
48 (equal treatment of state agency); section nineteen,  
49 article fifteen (coordination of benefits with medicaid);  
50 article fifteen-b (uniform health care administration  
51 act); article fifteen-c, (diabetes insurance); section three,  
52 article sixteen (required policy provisions); section  
53 three-f, article sixteen (treatment of temporomandibular  
54 disorder and craniomandibular disorder); section eleven,  
55 article sixteen (coverage of children); section thirteen,  
56 article sixteen (equal treatment of state agency); section  
57 fourteen, article sixteen (coordination of benefits with  
58 medicaid); section sixteen, article sixteen, (diabetes  
59 insurance); article sixteen-a (group health insurance  
60 conversion); article sixteen-c (small employer group  
61 policies); article sixteen-d (marketing and rate practices  
62 for small employers); article twenty-seven (insurance  
63 holding company systems); article thirty-four-a (stan-  
64 dards and commissioner's authority for companies  
65 deemed to be in hazardous financial condition); article  
66 thirty-five (criminal sanctions for failure to report  
67 impairment); article thirty-seven (managing general  
68 agents); and article thirty-nine (disclosure of material  
69 transactions) shall be applicable to any health mainte-  
70 nance organization granted a certificate of authority  
71 under this article. In circumstances where the code  
72 provisions made applicable to health maintenance  
73 organizations by this section refer to the "insurer", the  
74 "corporation" or words of similar import, the language  
75 shall be construed to include health maintenance organi-  
76 zations.

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

81 (f) A health maintenance organization granted a  
82 certificate of authority under this article shall be exempt  
83 from paying municipal business and occupation taxes on

84 gross income it receives from its enrollees, or from their  
85 employers or others on their behalf, for health care items  
86 or services provided directly or indirectly by the health  
87 maintenance organization. This exemption applies to all  
88 taxable years through the thirty-first day of December,  
89 one thousand nine hundred ninety-six. The commis-  
90 sioner and the tax department shall conduct a study of  
91 the appropriateness of imposition of the municipal  
92 business and occupation tax or other tax on health  
93 maintenance organizations, and shall report to the  
94 regular session of the Legislature, one thousand nine  
95 hundred ninety-seven, on their findings, conclusions and  
96 recommendations, together with drafts of any legislation  
97 necessary to effectuate their recommendations.

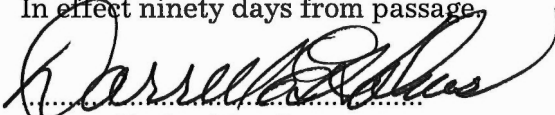
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
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Chairman Senate Committee

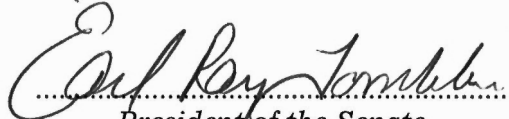
  
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Chairman House Committee

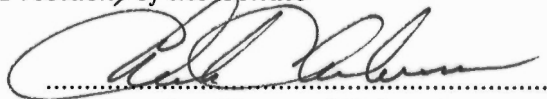
Originated in the Senate.

In effect ninety days from passage.

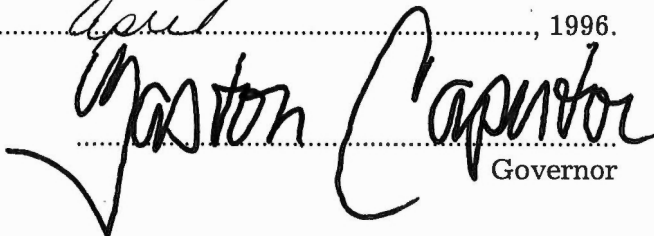
  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker House of Delegates

The within is approved this the 1st  
day of April, 1996.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/27/96

Time 10:25 am