

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**ENROLLED**

**House Bill 2776**

BY DELEGATES WESTFALL AND L. PACK

[Passed April 10, 2021; in effect ninety days from passage.]



1 AN ACT to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto  
2 a new article, designated §33-11B-1, relating to the creation of the West Virginia Air  
3 Ambulance Patient Protection Act; declaring that an air ambulance service provider or  
4 affiliated entity who solicits air ambulance membership subscriptions, accepts  
5 membership applications, or charges membership fees, is engaged in the business of  
6 insurance to the extent that it promises to pay, reimburse, or indemnify the copayments,  
7 deductibles, cost-sharing amounts, or post-service payments of a patient related to air  
8 ambulance transport as set by the patient's health insurance provider, health care  
9 provider, or other third parties; providing that air ambulance membership agreements or  
10 subscriptions declared to be the business of insurance shall be regulated by the  
11 commissioner; requiring a valid license issued by the commissioner to solicit or sell air  
12 ambulance membership agreements or subscriptions; providing for rulemaking by the  
13 commissioner; and providing for severability.

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

**ARTICLE 11B. WEST VIRGINIA AIR AMBULANCE PATIENT PROTECTION ACT.**

**§33-11B-1. Air ambulance membership products as insurance.**

1 (a) An air ambulance service provider or any affiliated entity who solicits air ambulance  
2 membership subscriptions, accepts membership applications, or charges membership fees, is  
3 deemed to be engaged in the business of insurance to the extent that it contracts, promises,  
4 guarantees, or in any other way portends to pay, reimburse, or indemnify the copayments,  
5 deductibles, or other cost-sharing amounts of a patient relating to the air ambulance transport as  
6 determined or set by the patient's health insurance provider, health care provider, or other third  
7 parties, or any post-service payment of costs to third parties relating to the transport.

8 (b) An air ambulance membership agreement or subscription for air ambulance services  
9 under subsection (a) of this section is insurance and may be considered secondary insurance

10 coverage or a supplement to any insurance coverage, and shall be subject to regulation by the  
11 commissioner pursuant to the provisions of this chapter.

12 (c) To the extent that activity falls within the business of insurance as described in  
13 subsection (a) of this section, no person or entity, whether directly or indirectly through an affiliated  
14 entity, agreement with a third party, or otherwise, may solicit or sell air ambulance membership  
15 agreements or subscriptions, accept membership applications, or charge membership fees  
16 except as authorized by a valid license issued by the commissioner pursuant to the provisions of  
17 this chapter.

18 (d) The commissioner may promulgate rules in accordance with §29A-3-1 *et seq.* of this  
19 code to effectuate the provisions of this section.

20 (e) If any provision of this section is held invalid by a court of competent jurisdiction, the  
21 invalidity shall not affect other provisions of this section, and to this end the provisions of this  
22 section are declared to be severable.

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

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2021.

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*Governor*