

SB 595

FILED

2002 APR -1 A 10: 11

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

~~FILED~~

~~2002 MAR 32 A 10: 06~~

~~OFFICE WEST VIRGINIA  
SECRETARY OF STATE~~

**WEST VIRGINIA LEGISLATURE**

*Regular Session, 2002*

**ENROLLED**

*Committee Substitute for*

**SENATE BILL NO.** 516

**(By Senators Minard and Kessler )**

**PASSED** March 8, 2002

**In Effect** ninety days from **Passage**

FILED

2002 APR -1 A 10: 11

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

~~FILED~~

~~2002 MAR 32 A 10: 07~~

~~OFFICE WEST VIRGINIA  
SECRETARY OF STATE~~

## ENROLLED

COMMITTEE SUBSTITUTE

FOR

### Senate Bill No. 516

(SENATORS MINARD AND KESSLER, *original sponsors*)

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[Passed March 8, 2002; in effect ninety days from passage.]

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AN ACT to amend and reenact sections one and three, article twenty-d, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to tail insurance and malpractice insurance generally; extending scope of article to include hospital coverage; and requiring malpractice insurers to submit plan for determination of partial limits in event of default on amortized payment.

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

That sections one and three, article twenty-d, 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 20D. TAIL INSURANCE.

§33-20D-1. Scope of article.

1 This article applies to malpractice insurance as defined  
2 in subdivision (9), subsection (e), section ten, article one of  
3 this chapter insuring a medical physician, osteopathic  
4 physician, podiatric physician, chiropractic physician,  
5 dentist, midwife, nurse practitioner or hospital which has  
6 been in effect for at least sixty days.

§33-20D-3. Tail insurance to be offered upon cancellation;  
availability of amortization; minimum premium  
rates; penalties for noncompliance.

1 (a) Upon cancellation, nonrenewal or termination of any  
2 claims made professional malpractice insurance policy, the  
3 insurer shall offer to the insured tail insurance coverage.

4 (b) Upon cancellation, nonrenewal or termination of any  
5 claims made professional malpractice insurance policy, the  
6 insurer shall offer to any professional licensed and practicing  
7 in the state of West Virginia, or who, upon retirement,  
8 last practiced in the state of West Virginia, the opportunity  
9 to amortize the payment of premiums for tail insurance  
10 over a period of not more than thirty-six months, in  
11 quarterly payments, at a rate to be established by the  
12 insurance commissioner: *Provided*, That quarterly premi-  
13 ums paid pursuant to this subsection shall not be less than  
14 seven hundred fifty dollars.

15 (c) The first quarterly payment shall be payable contem-  
16 poraneous with the issuance of the tail coverage policy.  
17 Subsequent payments shall be due and payable quarterly  
18 thereafter. Each licensed malpractice insurer shall submit  
19 for approval, by the commissioner, a plan for determina-  
20 tion of partial limits in the event of default on amortized  
21 payment.

22 (d) Any insurer who fails to offer tail insurance or in any  
23 other way violates the provisions of this article shall be

24 assessed a penalty equal to the amount of the premium  
25 due.

26 (e) The offer of tail insurance coverage required by this  
27 section shall expire forty-five days after the cancellation,  
28 termination or other expiration of the claims made  
29 professional malpractice insurance policy, unless sooner  
30 accepted, in writing, by the insured.

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 29<sup>th</sup>  
Day of March ....., 2002.

*[Signature]*  
.....  
Governor

PROBATION DEPT

CASE NO

Date: 3/26/02

Time: 3:10 pm