WEST VIRGINIA CODE: §33-40A-5

§33-40A-5. Authorized control level event.

(a) "Authorized control level event" means any of the following events:

(1) The filing of an RBC report by the health organization that indicates that the health organization's total adjusted capital is greater than or equal to its mandatory control level RBC but less than its authorized control level RBC;

(2) The notification by the commissioner to the health organization of an adjusted RBC report that indicates the event in subdivision (1) of this subsection, if the health organization does not challenge the adjusted RBC report under section seven of this article;

(3) If, pursuant to section seven of this article, the health organization challenges an adjusted RBC report that indicates the event in subdivision (1) of this subsection, notification by the commissioner to the health organization that the commissioner has, after a hearing, rejected the health organization's challenge;

(4) The failure of the health organization to respond, in a manner satisfactory to the commissioner, to a corrective order, if the health organization has not challenged the corrective order under section seven of this article; or

(5) If the health organization has challenged a corrective order under section seven of this article and the commissioner has, after a hearing, rejected the challenge or modified the corrective order, the failure of the health organization to respond, in a manner satisfactory to the commissioner, to the corrective order subsequent to rejection or modification by the commissioner.

(b) If there is an authorized control level event with respect to a health organization, the commissioner shall:

(1) Take such actions as are required under section four of this article regarding a health organization with respect to which a regulatory action level event has occurred; or

(2) If the commissioner considers it to be in the best interests of the policyholders and creditors of the health organization and of the public, take such actions as are necessary to cause the health organization to be placed under regulatory control under article ten of this chapter. If the commissioner takes such actions, the authorized control level event shall be considered sufficient grounds for the commissioner to take action under article ten of this chapter, and the commissioner has the rights, powers and duties with respect to the health organization as are set forth in article ten of this chapter. If the commissioner takes actions under this subdivision pursuant to an adjusted RBC report, the health organization is entitled to such protections as are afforded to health organizations under article ten of this

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chapter pertaining to summary proceedings.

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