WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION 1946

ENROLLED

SENATE BILL No. 3

(By Mr. [Signature])

PASSED March 27, 1946

In Effect [Underline] from Passage
AN ACT to amend and reenact article thirteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the organization and operation of hospital service corporations and medical service corporations, and to their licensing and regulation by the state.

Be it enacted by the Legislature of West Virginia:

That article thirteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**Article 13. Hospital Service Corporations and Medical Service Corporations.**

**Section**

1. Declaration of Legislative Purpose.
2. Definitions.
Section 1. Declaration of Legislative Policy.—In view of the desirability of making available to the people of the state increased hospital and medical services on a distributive cost basis, the declared policy of the Legislature in the enactment of this article is to encourage the organization, promotion and expansion of hospital service corporations and medical service corporations by exempting them from the payment of all taxes and from the operation of the general insurance laws of the state, but at the same time subjecting them to such regulation as may be necessary for the adequate protection of those members of the public who subscribe for the services offered by such corporations.
Sec. 2. Definitions.—For the purposes of this article:

(1) "Corporation" shall mean either a hospital service corporation or a medical service corporation.

(2) "Hospital service corporation" shall mean a non-profit, nonstock corporation, organized in accordance with the provisions of article one of this chapter for the sole purpose of contracting with the public and with hospitals for hospital service to be furnished to subscribers under terms of their contract with the corporation.

(3) "Hospital service" shall mean only such hospital care, to be provided by approved hospitals, or such payment therefor, as may be specified in the contract made by the subscriber with the corporation.

(4) "Medical service corporation" shall mean a non-profit, nonstock corporation, organized in accordance with the provisions of article one of this chapter for the sole purpose of contracting with the public and with duly licensed physicians for medical service to be furnished to subscribers under terms of their contract with the corporation, and controlled by a board of directors, the majority of whom are duly licensed physicians.
(5) "Medical service" shall mean only such medical and surgical care, to be provided by duly licensed physicians, or such payment therefor, as may be specified in the contract made by the subscriber with the corporation.

Sec. 3. Corporations Affected; Eligibility of Hospitals and Physicians.—Every such corporation operating within the state, whether organized before or after the effective date of this article, shall on and after such date be subject to the provisions hereof, except that no such corporation doing business on that date shall be required before the first day of July, one thousand nine hundred forty-six, to obtain the license provided for in section six of this article. Every approved hospital in this state shall be eligible for participation in the hospital service plan operating in the area in which such hospital is located. Every duly licensed physician in this state shall be eligible for participation in the medical service plan operating in the area in which he resides or practices.

Sec. 4. Exemptions.—Every such corporation is hereby declared to be a scientific, nonprofit institution, and as such exempt from the payment of all property and other
5 taxes. Except as otherwise provided in this article, such
6 corporations shall also be exempt from the operation of
7 the general insurance laws of the state. If, however, any
8 such corporation shall be converted into a corporation
9 organized for pecuniary profit, or if it shall transact busi-
10 ness without having obtained a license as required by
11 section six of this article, it shall thereupon forfeit its
12 right to these exemptions.

Sec. 5. Supervision by Insurance Commissioner; An-
2 nual Reports.—The auditor as state insurance commis-
3 sioner shall, to the extent specified in this article, have
4 general supervisory control over every such corporation,
5 and it shall be his duty to see that the provisions hereof
6 are properly executed and administered.
7 No such corporation shall, without the prior approval
8 of the commissioner, make any change in the terms of
9 its contract with subscribers or in the form of its appli-
10 cations, renewals, riders or endorsements; nor, after the
11 first year of its operation, shall any such corporation use
12 for administrative expenses more than twenty per cent
13 of its gross collections without first having obtained the
approval of the commissioner. No such corporation shall include in its name the words "insurance", "casualty", "surety", "health and accident", "mutual", or any other words descriptive of the insurance or surety business; nor shall such name be so similar to that of any insurance or surety company, which was doing business in the state when such corporation was formed, as to tend, in the opinion of the insurance commissioner, to confuse the public.

The insurance commissioner, and any deputy or examiner appointed by him for the purpose, shall in respect to every such corporation have the power of visitation, shall have free access to all books, papers and documents relating to the business of the corporation, and may administer oaths and compel the attendance of witnesses, including any officer, agent or employee of the corporation, in connection with any inquiry by him concerning the affairs or condition of the corporation.

The insurance commissioner shall pass upon the actuarial soundness of the schedule of rates to be charged subscribers and fees to be paid hospitals and physicians
by every such corporation. If in his opinion the schedule
of rates and fees is not actuarially sound, the schedule
shall be returned to the corporation, together with a state-
ment setting forth the reasons for the disapproval. If the
corporation fails to submit an approved revised schedule
within sixty days after the schedule is returned to it, the
insurance commissioner shall fix such rates or fees as will
in his opinion render the service plan actuarially sound.

On or before the first day of March of each year, every
such corporation shall file with the insurance commis-
sioner an annual report for the preceding calendar year,
in such form as may be prescribed by him. Such report
shall show the financial condition of the corporation on
the last day of the preceding year, and shall be verified
by at least two of the principal officers of the corporation.

Sec. 6. Licenses.—No such corporation shall enter into
any contract with a subscriber until it has obtained from
the insurance commissioner a license as provided in this
section. Application for a license shall be made on the
forms to be prescribed and furnished by the commis-
ioner.
Such application shall be accompanied by a copy of the following documents: (1) Certificate of incorporation. (2) By-laws. (3) Contracts between the corporation and participating hospitals or physicians. (4) Proposed contracts to be issued to subscribers, setting forth the hospital or medical service to which subscribers are entitled, and the table of rates to be charged for such service. (5) Financial statement, showing the amount of contributions paid, or agreed to be paid, to the corporation for working capital, the name or names of each contributor, and the terms of each contribution.

Within thirty days after receipt of an application, the insurance commissioner shall, upon payment to him of a license fee of one hundred dollars, issue a license authorizing the corporation to transact business in the state in the area to be served by it, if he is satisfied (1) that the applicant is incorporated in this state, under the provisions of article one of this chapter, as a bona fide non-profit corporation, (2) that the contracts between the corporation and participating hospitals and physicians contain all the terms required by the following section,
(3) that the working capital available to the corporation will be sufficient to pay all operating expenses, other than payment for hospital or medical services, for a reasonable period after the issuance of the license, and (4) that the proposed plan will serve the best interests of all the people of the area in which the corporation intends to operate, regardless of their race, color or economic status. Any license so issued may be renewed annually upon payment to the insurance commissioner of a renewal fee of one hundred dollars. The license of any corporation may be revoked by the commissioner if he finds that the corporation has violated any of the provisions of this article.

The provisions of the general insurance laws relating to the licensing of agents, solicitors and brokers shall apply to such persons employed by hospital or medical service corporations, except that the license fee shall be one dollar a year.

The provisions of the general insurance laws relating to the refusal to issue a license and to the revocation of
a license shall, insofar as practicable, apply to the licenses
provided for in this section.

All licenses issued by the insurance commissioner un-
der the provisions of this section shall, unless sooner
revoked, continue in force until the first day of April
following their issuance. If the expiration date of any
license issued to a corporation is less than nine months
after its issuance, the license fee shall be prorated on a
quarterly basis.

Sec. 7. Required Provisions in Contracts Made by the
Corporation with Hospitals and Physicians.—Each con-
tract made by the corporation with participating hos-
pitals and physicians shall contain the following pro-
visions:

(1) That the hospital or physician will render to any
subscriber such service as he may be entitled to under
the terms and conditions of the contract issued to the
subscriber by the corporation.

(2) That in submitting bills to the corporation for
services rendered to subscribers under the terms of their
contract, the hospital or physicians will make only such
(3) That, in case of a deficit in available funds of the corporation, each participating hospital or physician will, on the basis stated in this section, accept a pro rata share of available funds in full settlement of any bill submitted. On or before the twentieth day of each month, every corporation shall make an accounting with all participating hospitals and physicians, at which time all bills submitted for hospital or medical services rendered during the preceding month shall be paid in full or prorated and paid to the extent of available funds. On or before the first day of each March, every corporation shall make a special accounting, at which time the prorated settlements for any bills submitted for services rendered during the preceding calendar year shall be adjusted, and any deficits thereon shall be made up to the extent of available funds. At such annual accounting, settlements with all participating hospitals or physicians shall be equalized for the entire preceding year.
Any surplus remaining after an annual accounting may be used by a corporation, upon an affirmative vote of a majority of its board of directors, for the following purposes, in the order of priority stated below:

1. To liquidate on a pro rata basis any losses incurred by hospitals or physicians upon the settlement of bills in previous years.
2. To return the original contributions for working capital, or any part thereof on a pro rata basis.
3. To reduce rates charged subscribers, or to expand services rendered them.

Sec. 8. Contracts with Needy Persons.—A corporation may accept from governmental agencies payment of all or part of the cost of subscriptions for hospital or medical service to be rendered needy persons, and may accept from private agencies, corporations, associations, groups or individuals, similar payment for such service to be rendered needy or other persons. All contracts for hospital or medical service shall, however, be made by the corporation with the persons entitled to receive such service.
Sec. 9. Pay Roll Deductions of Governmental Employees.—The officer charged with the duty of preparing the pay roll of any subscriber, who is an employee of the state government or of any of its political subdivisions, may upon request of the subscriber deduct from his pay roll the amount of the fee owed by the subscriber to any hospital service corporation or medical service corporation, in which case the officer shall pay over such amount directly to the corporation.

Sec. 10. Investments; Bonds of Corporate Officers and Employees.—The funds of any such corporation may be invested only in securities of the United States, the State of West Virginia, or one of its political subdivisions. With the approval of the insurance commissioner, however, part of such funds may be spent by the corporation for the purchase or erection of a building to be used as its office.

Every officer or employee of any such corporation, who is entrusted with the handling of its funds, shall furnish, in such amount as may with the approval of the insurance commissioner be fixed by the board of direc-
tors of the corporation, a bond with corporate surety,
conditioned upon the faithful performance of all his
duties.

Sec. 11. *Dissolution.*—Upon the insolvency of any such
corporation, its dissolution or liquidation shall be con-
ducted under the supervision of the insurance commis-
sioner, who shall have in respect thereto all the powers
conferred upon him by the provisions of the general
insurance laws in respect to the dissolution or liquidation
of insurance companies.

Sec. 12. *Judicial Review of the Orders Issued by the*
*Insurance Commissioner.*—All official orders of the insur-
ance commissioner issued under the authority conferred
upon him by this article shall be subject to such judicial
review as is provided for in section fourteen, article four,
chapter thirty-three of the code.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Charles E. Morris
Chairman Senate Committee

Chairman House Committee

Originated in the Senate

Takes effect from passage

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within Approved this the 28th
day of March, 1946.

Governor.

At West Virginia MAR 29 1946
Min. S. O'Brien,
Secretary of State