

WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION 1946

ENROLLED

SENATE BILL No. 3

(By Mr. Vickers, Mr. President)

PASSED March 27, 1946

In Effect from Passage

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Senate Bill No. 3
(BY MR. VICKERS, MR. PRESIDENT)

[Passed March 22, 1946; in effect 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.

3. Corporations Affected; Eligibility of Hospitals and Physicians for Participation in Service Plans.
4. Exemptions.
5. Supervision by Insurance Commissioner; Annual Reports.
6. Licenses.
7. Required Provisions in Contracts Made by the Corporation with Hospitals and Physicians.
8. Contract with Needy Persons.
9. Pay Roll Deductions of Governmental Employees.
10. Investment; Bonds of Corporate Officers and Employees.
11. Dissolution.
12. Judicial Review.

Section 1. *Declaration of Legislative Policy.*—In view of
2 the desirability of making available to the people of the
3 state increased hospital and medical services on a dis-
4 tributive cost basis, the declared policy of the Legislature
5 in the enactment of this article is to encourage the organi-
6 zation, promotion and expansion of hospital service cor-
7 porations and medical service corporations by exempting
8 them from the payment of all taxes and from the opera-
9 tion of the general insurance laws of the state, but at the
10 same time subjecting them to such regulation as may be
11 necessary for the adequate protection of those members
12 of the public who subscribe for the services offered by
13 such corporations.

Sec. 2. *Definitions.*—For the purposes of this article:

2 (1) “Corporation” shall mean either a hospital service
3 corporation or a medical service corporation.

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

10 (3) “Hospital service” shall mean only such hospital
11 care, to be provided by approved hospitals, or such pay-
12 ment therefor, as may be specified in the contract made
13 by the subscriber with the corporation.

14 (4) “Medical service corporation” shall mean a non-
15 profit, nonstock corporation, organized in accordance with
16 the provisions of article one of this chapter for the sole
17 purpose of contracting with the public and with duly
18 licensed physicians for medical service to be furnished
19 to subscribers under terms of their contract with the
20 corporation, and controlled by a board of directors, the
21 majority of whom are duly licensed physicians.

22 (5) "Medical service" shall mean only such medical and
23 surgical care, to be provided by duly licensed physicians,
24 or such payment therefor, as may be specified in the con-
25 tract made by the subscriber with the corporation.

Sec. 3. *Corporations Affected; Eligibility of Hospitals
2 and Physicians.*—Every such corporation operating within
3 the state, whether organized before or after the effective
4 date of this article, shall on and after such date be sub-
5 ject to the provisions hereof, except that no such corpora-
6 tion doing business on that date shall be required before
7 the first day of July, one thousand nine hundred forty-six,
8 to obtain the license provided for in section six of this
9 article. Every approved hospital in this state shall be
10 eligible for participation in the hospital service plan op-
11 erating in the area in which such hospital is located.
12 Every duly licensed physician in this state shall be eligible
13 for participation in the medical service plan operating in
14 the area in which he resides or practices.

Sec. 4. *Exemptions.*—Every such corporation is hereby
2 declared to be a scientific, nonprofit institution, and as
3 such exempt from the payment of all property and other

4 taxes. Except as otherwise provided in this article, such
5 corporations shall also be exempt from the operation of
6 the general insurance laws of the state. If, however, any
7 such corporation shall be converted into a corporation
8 organized for pecuniary profit, or if it shall transact busi-
9 ness without having obtained a license as required by
10 section six of this article, it shall thereupon forfeit its
11 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

14 approval of the commissioner. No such corporation shall
15 include in its name the words "insurance", "casualty",
16 "surety", "health and accident", "mutual", or any other
17 words descriptive of the insurance or surety business;
18 nor shall such name be so similar to that of any insurance
19 or surety company, which was doing business in the state
20 when such corporation was formed, as to tend, in the
21 opinion of the insurance commissioner, to confuse the
22 public.

23 The insurance commissioner, and any deputy or ex-
24 aminer appointed by him for the purpose, shall in respect
25 to every such corporation have the power of visitation,
26 shall have free access to all books, papers and documents
27 relating to the business of the corporation, and may ad-
28 minister oaths and compel the attendance of witnesses,
29 including any officer, agent or employee of the corpora-
30 tion, in connection with any inquiry by him concerning
31 the affairs or condition of the corporation.

32 The insurance commissioner shall pass upon the actu-
33 arial soundness of the schedule of rates to be charged
34 subscribers and fees to be paid hospitals and physicians

35 by every such corporation. If in his opinion the schedule
36 of rates and fees is not actuarially sound, the schedule
37 shall be returned to the corporation, together with a state-
38 ment setting forth the reasons for the disapproval. If the
39 corporation fails to submit an approved revised schedule
40 within sixty days after the schedule is returned to it, the
41 insurance commissioner shall fix such rates or fees as will
42 in his opinion render the service plan actuarially sound.

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

Sec. 6. *Licenses.*—No such corporation shall enter into
2 any contract with a subscriber until it has obtained from
3 the insurance commissioner a license as provided in this
4 section. Application for a license shall be made on the
5 forms to be prescribed and furnished by the commis-
6 sioner.

7 Such application shall be accompanied by a copy of
8 the following documents: (1) Certificate of incorpora-
9 tion. (2) By-laws. (3) Contracts between the corpora-
10 tion and participating hospitals or physicians. (4) Pro-
11 posed contracts to be issued to subscribers, setting forth
12 the hospital or medical service to which subscribers are
13 entitled, and the table of rates to be charged for such
14 service. (5) Financial statement, showing the amount of
15 contributions paid, or agreed to be paid, to the corporation
16 for working capital, the name or names of each con-
17 tributor, and the terms of each contribution.

18 Within thirty days after receipt of an application, the
19 insurance commissioner shall, upon payment to him of a
20 license fee of one hundred dollars, issue a license author-
21 izing the corporation to transact business in the state in
22 the area to be served by it, if he is satisfied (1) that the
23 applicant is incorporated in this state, under the pro-
24 visions of article one of this chapter, as a *bona fide* non-
25 profit corporation, (2) that the contracts between the
26 corporation and participating hospitals and physicians
27 contain all the terms required by the following section,

28 (3) that the working capital available to the corpora-
29 tion will be sufficient to pay all operating expenses,
30 other than payment for hospital or medical services, for
31 a reasonable period after the issuance of the license, and

32 (4) that the proposed plan will serve the best interests
33 of all the people of the area in which the corporation
34 intends to operate, regardless of their race, color or eco-
35 nomic status. Any license so issued may be renewed
36 annually upon payment to the insurance commissioner
37 of a renewal fee of one hundred dollars. The license of
38 any corporation may be revoked by the commissioner if
39 he finds that the corporation has violated any of the
40 provisions of this article.

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

46 The provisions of the general insurance laws relating
47 to the refusal to issue a license and to the revocation of

48 a license shall, insofar as practicable, apply to the licenses
49 provided for in this section.

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

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

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

10 (2) That in submitting bills to the corporation for
11 services rendered to subscribers under the terms of their
12 contract, the hospital or physicians will make only such

13 charges as are set forth in an agreed schedule of fees to
14 be paid by the corporation.

15 (3) That, in case of a deficit in available funds of the
16 corporation, each participating hospital or physician will,
17 on the basis stated in this section, accept a pro rata share
18 of available funds in full settlement of any bill submitted.

19 On or before the twentieth day of each month, every
20 corporation shall make an accounting with all partici-
21 pating hospitals and physicians, at which time all bills
22 submitted for hospital or medical services rendered dur-
23 ing the preceding month shall be paid in full or prorated
24 and paid to the extent of available funds. On or before
25 the first day of each March, every corporation shall make
26 a special accounting, at which time the prorated settle-
27 ments for any bills submitted for services rendered dur-
28 ing the preceding calendar year shall be adjusted, and
29 any deficits thereon shall be made up to the extent of
30 available funds. At such annual accounting, settlements
31 with all participating hospitals or physicians shall be
32 equalized for the entire preceding year.

33 Any surplus remaining after an annual accounting may
34 be used by a corporation, upon an affirmative vote of a
35 majority of its board of directors, for the following pur-
36 poses, in the order of priority stated below:

37 (1) To liquidate on a pro rata basis any losses incurred
38 by hospitals or physicians upon the settlement of bills in
39 previous years.

40 (2) To return the original contributions for working
41 capital, or any part thereof on a pro rata basis.

42 (3) To reduce rates charged subscribers, or to expand
43 services rendered them.

Sec. 8. *Contracts with Needy Persons.*—A corporation
2 may accept from governmental agencies payment of all
3 or part of the cost of subscriptions for hospital or med-
4 ical service to be rendered needy persons, and may ac-
5 cept from private agencies, corporations, associations,
6 groups or individuals, similar payment for such service
7 to be rendered needy or other persons. All contracts for
8 hospital or medical service shall, however, be made by
9 the corporation with the persons entitled to receive such
10 service.

Sec. 9. *Pay Roll Deductions of Governmental Em-*
2 *ployees.*—The officer charged with the duty of preparing
3 the pay roll of any subscriber, who is an employee of
4 the state government or of any of its political subdi-
5 visions, may upon request of the subscriber deduct from
6 his pay roll the amount of the fee owed by the sub-
7 scriber to any hospital service corporation or medical
8 service corporation, in which case the officer shall pay
9 over such amount directly to the corporation.

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

9 Every officer or employee of any such corporation, **who**
10 is entrusted with the handling of its funds, shall fur-
11 nish, in such amount as may with the approval of the
12 insurance commissioner be fixed by the board of direc-

13 tors of the corporation, a bond with corporate surety,
14 conditioned upon the faithful performance of all his
15 duties.

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

Sec. 12. *Judicial Review of the Orders Issued by the*
2 *Insurance Commissioner.*—All official orders of the insur-
3 ance commissioner issued under the authority conferred
4 upon him by this article shall be subject to such judicial
5 review as is provided for in section fourteen, article four,
6 chapter thirty-three of the code.

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

Charles C. Morris
Chairman Senate Committee

J. A. DeGruyter Jr.
Chairman House Committee

Originated in the Senate

Takes effect from passage

Howard Hughes
Clerk of the Senate

St. Klipp
Clerk of the House of Delegates

Amos W. Vidler
President of the Senate

John E. Amos
Speaker House of Delegates

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

Clarence Medsker
Governor.



FILED IN THE OFFICE OF THE
of West Virginia **MAR 29 1946**
Wm. S. O'BRIEN,
Secretary of State