

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1974

ENROLLED

SENATE BILL NO. 403

(By Mr. Kessic)

PASSED March 5 1974

In Effect ninety days from Passage



FILED IN THE OFFICE  
EDGAR F. HEISKELL III  
SECRETARY OF STATE  
THIS DATE 3-18-74

403

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AN ACT to amend and reenact section four, article twenty-four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said chapter thirty-three by adding thereto a new article, designated article twenty-eight, relating to insurance; individual accident and sickness insurance minimum standards; short title; purpose; definitions; standards for policy provisions; minimum standards for benefits; outline of coverage; pre-existing conditions.

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

That section four, article twenty-four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said chapter thirty-three be further amended by adding thereto a new article, designated article twenty-eight, all to read as follows:

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS AND DENTAL SERVICE CORPORATIONS.**

**§33-24-4. Exemptions; applicability of other laws.**

1 Every such corporation is hereby declared to be a  
2 scientific, nonprofit institution and as such exempt from  
3 the payment of all property and other taxes. Every such  
4 corporation, to the same extent such provisions are ap-  
5 plicable to insurers transacting similar kinds of insurance  
6 and not inconsistent with the provisions of this article,

7 shall be governed by and be subject to the provisions of  
8 the following articles of this chapter: Article two (insur-  
9 ance commissioner) except that under section nine of  
10 article two examinations shall be conducted at least once  
11 every four years, article four (general provisions) except  
12 that section sixteen of article four shall not be applicable  
13 thereto, article ten (rehabilitation and liquidation), article  
14 eleven (unfair practices and frauds), article twelve  
15 (agents, brokers and solicitors) except that the agent's  
16 license fee shall be one dollar and article twenty-eight (in-  
17 dividual accident and sickness insurance minimum stand-  
18 ards); and no other provision of this chapter shall apply to  
19 such corporations unless specifically made applicable by  
20 the provisions of this article. If, however, any such cor-  
21 poration shall be converted into a corporation organized for  
22 a pecuniary profit, or if it shall transact business without  
23 having obtained a license as required by section five of  
24 this article, it shall thereupon forfeit its right to these  
25 exemptions.

**ARTICLE 28. INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE MINIMUM STANDARDS.**

**§33-28-1. Short title.**

1 This article shall be known and cited as the "West Vir-  
2 ginia Individual Accident and Sickness Insurance Mini-  
3 mum Standards Act."

**§33-28-2. Purpose of article.**

1 The purpose of this article is to provide reasonable  
2 standardization and simplification of terms and coverages  
3 of individual accident and sickness insurance policies and  
4 subscriber contracts of hospital and medical service cor-  
5 porations in order to facilitate public understanding and  
6 comparison and to eliminate provisions contained in in-  
7 dividual accident and sickness insurance policies and sub-  
8 scriber contracts of hospital and medical service corpora-  
9 tions which may be misleading or confusing in connection  
10 either with the purchase of such coverages or with the  
11 settlement of claims and to provide for full disclosure in  
12 the sale of such coverages.

**§33-28-3. Definition of terms used in article.**

1 As used in this article, unless used in a context that  
2 clearly requires a different meaning, the term:

3 (a) "Form" means a policy, contract, rider, endorse-  
4 ment or application as provided in section eight, article  
5 six of this chapter when used to describe an individual  
6 accident and sickness policy form, and means a contract,  
7 application, rider or endorsement as provided in section  
8 six, article twenty-four of this chapter when used to de-  
9 scribe a hospital or medical service corporation subscrib-  
10 er's contract.

11 (b) "Accident and sickness insurance" means insur-  
12 ance written under article fifteen of this chapter, other  
13 than credit accident and sickness insurance, and coverages  
14 written under article twenty-four of this chapter. For pur-  
15 poses of this article, hospital, medical and dental service  
16 corporations shall be deemed to be engaged in the business  
17 of insurance.

18 (c) "Policy" means the entire contract between an in-  
19 surer and an individual insured, including the policy,  
20 riders, endorsements and the application, if attached. The  
21 term "policy" shall not include coverages issued pursuant  
22 to a conversion privilege under a policy or contract of  
23 group insurance.

24 (d) "Subscriber contract" means the entire subscriber  
25 contract issued by a hospital, medical or dental service  
26 corporation to an individual subscriber, including the con-  
27 tract, riders, endorsements and the application, if attached.  
28 The term "subscriber contract" shall not include coverages  
29 issued pursuant to a conversion privilege under a policy  
30 or contract of group insurance.

31 (e) "Direct response insurance product" means an  
32 individual policy of accident and sickness insurance or a  
33 subscriber contract of a hospital, medical or dental service  
34 corporation, the sale of which is effected through direct  
35 contact between an insurer and an individual insured or  
36 between a hospital, medical or dental service corporation  
37 and a subscriber, without employing the intermediary  
38 services of an agent, broker or solicitor.

**§33-28-4. Standards for policy provisions.**

1 (a) The commissioner shall promulgate rules and  
2 regulations, in accordance with chapter twenty-nine-a of  
3 the code, to establish specific standards, including stand-  
4 ards of full and fair disclosure, that set forth the manner,  
5 content and required disclosure for the sale of individual  
6 policies of accident and sickness insurance and subscriber  
7 contracts of hospital, medical and dental service corpora-  
8 tions which shall be in addition to, and in accordance with,  
9 applicable laws of this state. Such rules and regulations  
10 may cover, but shall not be limited to:

- 11 (1) Terms of renewability;
- 12 (2) Initial and subsequent conditions of eligibility;
- 13 (3) Nonduplication of coverage provisions;
- 14 (4) Coverage of dependents;
- 15 (5) Pre-existing conditions;
- 16 (6) Termination of insurance;
- 17 (7) Probationary periods;
- 18 (8) Limitations;
- 19 (9) Exceptions;
- 20 (10) Reductions;
- 21 (11) Elimination periods;
- 22 (12) Requirements for replacement;
- 23 (13) Recurrent conditions; and
- 24 (14) The definition of terms including, but not limited  
25 to, hospital, accident, sickness, injury, physician, acciden- *24 w.c.*  
26 tal means, total disability, permanent disability, partial  
27 disability, nervous disorder, guaranteed renewable and  
28 noncancellable.

29 (b) The commissioner may promulgate rules and  
30 regulations, in accordance with chapter twenty-nine-a of  
31 the code, specifying prohibited provisions of policies and  
32 subscriber contracts not otherwise specifically authorized  
33 by statute which in the opinion of the commissioner are  
34 unjust, unfair or unfairly discriminatory either to the  
35 policyholder, subscriber, beneficiary or any person insured  
36 under the policy.

**§33-28-5. Minimum standards for benefits.**

1 (a) The commissioner shall promulgate rules and reg-  
2 ulations, in accordance with chapter twenty-nine-a of the

3 code, to establish minimum standards for benefits under  
4 each of the following categories of coverage in individual  
5 policies of accident and sickness insurance and subscriber  
6 contracts of hospital, medical, dental and service corpora-  
7 tions:

- 8 (1) Basic hospital expense coverage;
- 9 (2) Basic medical-surgical expense coverage;
- 10 (3) Hospital confinement indemnity coverage;
- 11 (4) Major medical expense coverage;
- 12 (5) Disability income protection coverage;
- 13 (6) Accident only coverage; and
- 14 (7) Specified disease or specified accident coverage.

15 (b) Nothing in this section shall preclude the issuance  
16 of any policy or subscriber contract which combines  
17 two or more of the categories of coverage enumerated in  
18 subdivisions (1) through (6) of subsection (a) of this  
19 section.

20 (c) No policy or subscriber contract shall be delivered  
21 or issued for delivery in this state which does not meet  
22 the prescribed minimum standards for the categories of  
23 coverage listed in subdivisions (1) through (7) of subsec-  
24 tion (a) of this section unless the commissioner finds that  
25 such policy or subscriber contract will be in the public  
26 interest and that such policy or subscriber contract con-  
27 tains benefits which are reasonable in relation to the pre-  
28 mium charged.

29 (d) The commissioner shall prescribe the method of  
30 identification of policies and subscriber contracts based  
31 upon coverages provided.

**§33-28-6. Outline of coverage.**

1 (a) In order to provide for full and fair disclosure in  
2 the sale of individual accident and sickness insurance  
3 policies or subscriber contracts of hospital, medical and  
4 dental service corporations, no such policy or subscriber  
5 contract shall be delivered or issued for delivery in this  
6 state unless:

- 7 (1) In the case of a direct response insurance product,  
8 the outline of coverage described in subsection (b) of this  
9 section accompanies the policy or subscriber contract; and

10 (2) In all other cases, the outline of coverage described  
11 in subsection (b) of this section is delivered to the appli-  
12 cant at the time application is made and an acknowledg-  
13 ment of receipt or certificate of delivery of such outline  
14 is provided the insurer or hospital, medical or dental serv-  
15 ice corporation with the application. In the event the  
16 policy or subscriber contract is issued on a basis other  
17 than that applied for, the outline of coverage properly  
18 describing the policy or subscriber contract must ac-  
19 company the policy or subscriber contract when it is de-  
20 livered and clearly state that it is not the policy or  
21 subscriber contract for which application was made.

22 (b) The commissioner shall, by promulgation of ap-  
23 propriate rules and regulations in accordance with chap-  
24 ter twenty-nine-a of the code, prescribe the format and  
25 content of the outline of coverage required by subsection  
26 (a) of this section. "Format" means style, arrangement  
27 and overall appearance, including such items as the size,  
28 color and prominence of type and the arrangement of  
29 text and captions. Such outline of coverage shall in-  
30 clude:

31 (1) A statement identifying the applicable category  
32 or categories of coverage provided by the policy or sub-  
33 scriber contract as prescribed in section five of this ar-  
34 ticle;

35 (2) A description of the principal benefits and cover-  
36 age provided in the policy or subscriber contract;

37 (3) A statement of the exceptions, reductions and  
38 limitations contained in the policy or subscriber contract;

39 (4) A statement of the renewal provisions, including  
40 any reservation by the insurer or hospital, medical or den-  
41 tal service corporation of a right to change premiums;  
42 and

43 (5) A statement that the outline of coverage is a  
44 summary of the policy or subscriber contract issued or  
45 applied for and that the terms of the policy or subscriber  
46 contract should be consulted to determine governing con-  
47 tractual provisions.

### §33-28-7. Pre-existing conditions.

1 Notwithstanding the provisions of section four-b, ar-

2 ticle fifteen of this chapter if an insurer or a hospital,  
3 medical or dental service corporation elects to use a  
4 simplified application form containing no questions con-  
5 cerning the applicant's health history or medical treat-  
6 ment history, the policy or contract applied for must  
7 cover any loss occurring after twelve months from the  
8 inception date of coverage which loss is traceable to a  
9 pre-existing condition not specifically excluded from cov-  
10 erage by the terms of the policy, and, except as so pro-  
11 vided, the policy or contract shall not include wording  
12 which would permit a defense based upon pre-existing  
13 conditions.

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

H. Darrel Darby  
Chairman Senate Committee

Freeman M. Thurman  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Samuel W. Carson  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

H. D. Bratherton, Jr.  
President of the Senate

Lewis F. M. Menn  
Speaker House of Delegates

The within approved this the 14th  
March, 1974.  
day of \_\_\_\_\_

Arch A. Phares, Jr.  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/8/74

Time 11:47 a.m.