

No. 252

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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



ENROLLED
Committee Substitute for
SENATE BILL NO. 252

(By Senator Jackson, et al)



PASSED April 8, 1989

In Effect July 1, 1989 

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 252

(SENATORS JACKSON, TOMBLIN, JONES AND LUCHT,
original sponsors)

[Passed April 8, 1989; to take effect July 1, 1989.]

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; to amend and reenact section twenty-four, article twenty-five-a of said chapter; and to amend article sixteen of said chapter by adding thereto a new section, designated section three-f, all relating to insurance policies; hospital service corporations, medical service corporations and dental service corporations; exemptions; health maintenance organizations; and requiring the insurance commissioner to promulgate rules and regulations for the treatment of temporomandibular joint disorder and craniomandibular disorder.

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; that section twenty-four, article twenty-five-a of said chapter be amended and reenacted; and that article sixteen

of said chapter be amended by adding thereto a new section, designated section four-c, 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
3 from the payment of all property and other taxes.
4 Every such corporation, to the same extent such
5 provisions are applicable to insurers transacting
6 similar kinds of insurance and not inconsistent with
7 the provisions of this article, shall be governed by and
8 be subject to the provisions, as hereinbelow indicated,
9 of the following articles of this chapter: Article two
10 (insurance commissioner) except that under section
11 nine of article two examinations shall be conducted at
12 least once every four years, article four (general
13 provisions) except that section sixteen of article four
14 shall not be applicable thereto, article ten (rehabilita-
15 tion and liquidation), article eleven (unfair practices
16 and frauds), article twelve (agents, brokers and solici-
17 tors) except that the agent's license fee shall be five
18 dollars, section three-c, article sixteen (group accident
19 and sickness insurance), section three-d, article sixteen
20 (medicare supplement), article sixteen, section four-c,
21 (treatment of temporomandibular joint disorder and
22 craniomandibular disorder), and article twenty-eight
23 (individual accident and sickness insurance minimum
24 standards); and no other provision of this chapter shall
25 apply to such corporations unless specifically made
26 applicable by the provisions of this article. If, however,
27 any such corporation shall be converted into a corpo-
28 ration organized for a pecuniary profit, or if it shall
29 transact business without having obtained a license as
30 required by section five of this article, it shall there-
31 upon forfeit its right to these exemptions.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-24. Statutory construction and relationship to other laws.

1 (1) Except as otherwise provided in this article,
2 provisions of the insurance law and provisions of
3 hospital or medical service corporation laws shall not
4 be applicable to any health maintenance organization
5 granted a certificate of authority under this article.
6 This provision shall not apply to an insurer or hospital
7 or medical service corporation licensed and regulated
8 pursuant to the insurance laws or the hospital or
9 medical service corporation laws of this state except
10 with respect to its health maintenance corporation
11 activities authorized and regulated pursuant to this
12 article.

13 (2) Factually accurate advertising or solicitation
14 regarding the range of services provided, the premi-
15 ums and copayments charged, the sites of services and
16 hours of operation, and any other quantifiable, non-
17 professional aspects of its operation by a health
18 maintenance organization granted a certificate of
19 authority, or its representative shall not be construed
20 to violate any provision of law relating to solicitation
21 or advertising by health professions: *Provided*, That
22 nothing contained herein shall be construed as autho-
23 rizing any solicitation or advertising which identifies
24 or refers to any individual provider, or makes any
25 qualitative judgment concerning any provider.

26 (3) Any health maintenance organization authorized
27 under this article shall not be deemed to be practicing
28 medicine and shall be exempt from the provision of
29 chapter thirty of this code, relating to the practice of
30 medicine.

31 (4) The provisions of section four-c of article sixteen
32 of this chapter concerning treatment of temporoman-
33 dibular disorder and craniomandibular disorder shall
34 be applicable to any health maintenance organization
35 granted a certificate of authority under this article.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

**§33-16-3f. Required policy provisions — Treatment of
temporomandibular joint disorder and crani-
omandibular disorder.**

1 (a) The Legislature hereby finds that there is a need
2 to provide guidelines regarding the coverage of tempo-
3 romandibular joint disorder and craniomandibular
4 disorder in policies issued pursuant to this article and
5 article fifteen of this chapter, in order to provide for
6 the health of our citizens. The purpose of this section
7 is to require the insurance commissioner to develop
8 standards regarding temporomandibular joint disorder
9 and craniomandibular disorder and to require that all
10 insurers writing accident and sickness policies which
11 are covered by this article or article fifteen of this
12 chapter, and the public employees insurance agency as
13 set forth in article sixteen of chapter five make
14 available this coverage to the policyholder or sponsor
15 of each such policy. For purposes of this section, the
16 public employees insurance agency is the policyholder.

17 (b) The insurance commissioner shall promulgate
18 rules and regulations regarding the diagnosis and
19 treatment for temporomandibular joint disorder and
20 craniomandibular disorder coverage in accident and
21 sickness policies covered by this article and article
22 fifteen of this chapter. Such regulations shall prescribe
23 the manner by which such coverage shall be offered to
24 the policyholder or sponsor; that benefits shall apply
25 whether administered by a physician or dentist, and
26 findings regarding the projected actuarial costs of
27 implementing said regulations.

28 (c) The regulations shall be developed by the insur-
29 ance commissioner with the advice of a six-member
30 panel to be appointed by the commissioner. Such
31 panel shall consist of a general practicing dentist who
32 shall be recommended by the West Virginia Dental
33 Association, an oral and maxillofacial surgeon who
34 shall be recommended by the West Virginia Society
35 for Oral and Maxillofacial Dentists, a physician who
36 shall be recommended by the West Virginia State
37 Medical Association, a member from a Health Services
38 Corporation who shall be recommended by the Health
39 Services Corporation in this state, a member repres-
40 enting commercial health insurers who shall be
41 recommended by the association representing accident

42 and sickness insurance, and a representative of the
43 Public Employees Insurance Association.

44 The insurance commissioner shall make his appoint-
45 ments to the panel based solely upon said recommen-
46 dations thirty days after this section takes effect.

47 (d) This section shall only apply to policies of
48 insurance which provide hospital, surgical or major
49 medical expense insurance or any combination of
50 these coverages.

Enr. Com. Sub. For S. B. No. 252] 6

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

Frederick L. Perren
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1989.

Todd C. Withers
.....
Clerk of the Senate

Donald J. Kopp
.....
Clerk of the House of Delegates

Sam S. Tucker
.....
President of the Senate

B. B. Stoll
.....
Speaker House of Delegates

The within *is* approved this the *27th*
day of *April* 1989.
Yaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/20/89

Time 10:37