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 scientific, nonprofit institution and as such exempt from the payment of all property and other taxes.
2 Every such corporation, to the same extent such provisions are applicable to insurers transacting similar kinds of insurance and not inconsistent with the provisions of this article, shall be governed by and be subject to the provisions, as hereinbelow indicated, of the following articles of this chapter: Article two (insurance commissioner) except that under section nine of article two examinations shall be conducted at least once every four years, article four (general provisions) except that section sixteen of article four shall not be applicable thereto, article ten (rehabilitation and liquidation), article eleven (unfair practices and frauds), article twelve (agents, brokers and solicitors) except that the agent’s license fee shall be five dollars, section three-c, article sixteen (group accident and sickness insurance), section three-d, article sixteen (medicare supplement), article sixteen, section four-c, (treatment of temporomandibular joint disorder and craniomandibular disorder), and article twenty-eight (individual accident and sickness insurance minimum standards); and no other provision of this chapter shall apply to such corporations unless specifically made applicable by the provisions of this article. If, however, any such corporation shall be converted into a corporation organized for a pecuniary profit, or if it shall transact business without having obtained a license as required by section five of this article, it shall thereupon forfeit its right to these exemptions.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

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

(2) Factually accurate advertising or solicitation regarding the range of services provided, the premiums and copayments charged, the sites of services and hours of operation, and any other quantifiable, non-professional aspects of its operation by a health maintenance organization granted a certificate of authority, or its representative shall not be construed to violate any provision of law relating to solicitation or advertising by health professions: Provided, That nothing contained herein shall be construed as authorizing any solicitation or advertising which identifies or refers to any individual provider, or makes any qualitative judgment concerning any provider.

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

(4) The provisions of section four-c of article sixteen of this chapter concerning treatment of temporomandibular disorder and craniomandibular disorder shall be applicable to any health maintenance organization 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 craniomandibular disorder.
(a) The Legislature hereby finds that there is a need to provide guidelines regarding the coverage of temporomandibular joint disorder and craniomandibular disorder in policies issued pursuant to this article and article fifteen of this chapter, in order to provide for the health of our citizens. The purpose of this section is to require the insurance commissioner to develop standards regarding temporomandibular joint disorder and craniomandibular disorder and to require that all insurers writing accident and sickness policies which are covered by this article or article fifteen of this chapter, and the public employees insurance agency as set forth in article sixteen of chapter five make available this coverage to the policyholder or sponsor of each such policy. For purposes of this section, the public employees insurance agency is the policyholder.

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

(c) The regulations shall be developed by the insurance commissioner with the advice of a six-member panel to be appointed by the commissioner. Such panel shall consist of a general practicing dentist who shall be recommended by the West Virginia Dental Association, an oral and maxillofacial surgeon who shall be recommended by the West Virginia Society for Oral and Maxillofacial Dentists, a physician who shall be recommended by the West Virginia State Medical Association, a member from a Health Services Corporation who shall be recommended by the Health Services Corporation in this state, a member representing commercial health insurers who shall be recommended by the association representing accident
and sickness insurance, and a representative of the Public Employees Insurance Association. The insurance commissioner shall make his appointments to the panel based solely upon said recommendations thirty days after this section takes effect. (d) This section shall only apply to policies of insurance which provide hospital, surgical or major medical expense insurance or any combination of these coverages.
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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick L. Hensley
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1989.

J. W. Nalle
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

President of the Senate

B. F. O'Keeffe
Speaker House of Delegates

The within was approved this the 21st day of April, 1989.

Governor