WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

ENROLLED

Cam. Sub. for
HOUSE BILL No. 4151

(By Mr. Speaker, Mr. R. Charles, and Del. R. Burke)

Passed

March 10, 1990

In Effect

From Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4151
(By Mr. Speaker, Mr. Chambers, and Delegate R. Burk)
[By Request of the Executive]

[Passed March 10, 1990; in effect from passage.]

AN ACT to amend and reenact section five-c, article twelve, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to establishing the amount and type of insurance coverage for obstetric treatment of medicaid patients; including provisions for primary insurance coverage for specified medical practitioners; excess insurance coverage for specified medical practitioners; and authorizing the board of risk and insurance management, with approval of the insurance commissioner, to promulgate rules and regulations.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 12. STATE INSURANCE.

§29-12-5c. Insurance for damages allegedly resulting from obstetric treatment of medicaid patients.
(a) In accordance with the provisions of this article, the state board of risk and insurance management shall provide professional malpractice insurance for all medical practitioners who provide obstetric treatment to patients which is reimbursed or reimbursable by state medicaid funds: Provided, That such medical practitioner has, prior to the alleged negligent act or acts, become a participant in the primary professional malpractice insurance program.

Said primary insurance shall cover any claim, demand, action, suit or judgment by reason of alleged negligence in the course of providing such obstetric treatment which results in injury. Such primary insurance coverage shall be in an amount to be determined by the state board of risk and insurance management, but in no event less than one million dollars for each occurrence.

Such primary insurance coverage shall be mandatory for medical practitioners covered for obstetric treatment by the board of risk and insurance management. Such primary coverage shall be optional for any other medical practitioner who treats medicaid obstetric patients.

The board of risk and insurance management shall establish the criteria for the program for the approval of the insurance commissioner on or before the fifteenth day of June, one thousand nine hundred ninety.

The insurance coverage specified in this subsection shall not apply to any hospital which is the site of the obstetric treatment or to any employee of said hospital, except that a medical practitioner providing the obstetric treatment who is also an employee of the hospital which is the site of the treatment shall be included in the insurance coverage required by this section.

(b) In accordance with the provisions of this article, the state board of risk and insurance management shall provide optional excess professional malpractice insurance for all medical practitioners who provide obstetric
treatment to patients which is reimbursed or reimbursable by state medicaid funds: Provided, That such medical practitioner has, prior to the alleged negligent act or acts, become a participant in the excess insurance program. Such excess insurance coverage shall, in no event, exceed three million dollars.

For the purposes of this subsection, excess insurance shall be defined as coverage over and above any other primary or collectible malpractice liability coverage. In no event shall this coverage be primary. Each insured must carry primary insurance of at least one million dollars. Such liability excess malpractice coverage shall be in an amount to be determined by the state board of risk and insurance management, but in no event less than one million dollars for each occurrence.

The board of risk and insurance management shall establish the criteria for an optional program of excess professional malpractice insurance for the approval of the insurance commissioner on or before the fifteenth day of June, one thousand nine hundred ninety.

(c) For the purpose of this section, the definition of medical practitioner shall be limited to physicians, obstetric/gynecological nurse practitioners, certified nurse midwives, nurse anesthetists, and physicians assistants.

(d) Any premiums assessed and collected under the provisions of this section, or rules and regulations promulgated pursuant to the provisions of this section, shall be placed in a separate insurance pool known as the obstetrical/gynecological liability pool. Said pool is to be administered and maintained by the board of risk and insurance management.

(e) The board of risk and insurance management, with approval of the insurance commissioner, shall have the authority to make needful rules and regulations for the administration of this section, as provided in the State Administrative Procedures Act in chapter twenty-nine-a of this code: Provided, That the board of risk and insurance management, with approval of the insurance commissioner, shall...
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79 commissioner, shall have the authority to promulgate
80 rules and regulations regarding the discontinuance of
81 the program if participation in the program is insuffi-
82 cient to make said program economically feasible.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 31st
day of , 1990.

Governor