WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1993

ENROLLED
Committee Substitute for
SENATE BILL NO. 326

(By Senators Minard & Helmick)

PASSED April 5, 1993
In Effect 90 days from Passage
AN ACT to amend and reenact section three, article sixteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section four, article twenty-four of said chapter; to amend and reenact section six, article twenty-five of said chapter; and to amend and reenact section twenty-four, article twenty-five-a of said chapter, all relating to the promulgation of rules for minimum policy provisions on group accident and sickness coverage; applying the same to hospital service corporations, medical service corporations, dental service corporations, health service corporations, health care corporations and health maintenance organizations.

Be it enacted by the Legislature of West Virginia:

That section three, article sixteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section four, article twenty-four of said chapter be amended and reenacted; that section six, article twenty-five
of said chapter be amended and reenacted; and that section twenty-four, article twenty-five-a of said chapter be amended and reenacted, all to read as follows:

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3. Required policy provisions.

1 Each such policy hereafter delivered or issued for delivery in this state shall contain in substance the following provisions:

4 (a) A provision that the policy, the application of the policyholder, a copy of which shall be attached to such policy, and the individual applications, if any, submitted in connection with such policy by the employees or members, shall constitute the entire contract between the parties, and that all statements made by any applicant or applicants shall be deemed representations and not warranties, and that no such statement shall void the insurance or reduce benefits thereunder unless contained in a written application.

(b) A provision that the insurer will furnish to the policyholder, for delivery to each employee or member of the insured group, an individual certificate setting forth in substance the essential features of the insurance coverage of such employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one certificate need be issued for each family unit.

(c) A provision that all new employees or members, as the case may be, in the groups or classes eligible for insurance, shall from time to time be added to such groups or classes eligible to obtain such insurance in accordance with the terms of the policy.

(d) No provision relative to notice or proof of loss or the time for paying benefits or the time within which suit may be brought upon the policy shall be less favorable to the insured than would be permitted in the case of an individual policy by the provisions set forth in article fifteen of this chapter.

(e) A provision that all members in groups or classes
eligible for insurance provided through an employee's group plan shall be permitted to pay the premiums at the same group rate and receive the same coverages for a period not to exceed eighteen months when they are involuntarily laid off from work.

(f) Such further provisions establishing group accident and sickness minimum policy coverage standards as the commissioner shall promulgate by rule pursuant to chapter twenty-nine-a of this code.

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

§33-24-4. Exemptions; applicability of insurance laws.

1 Every corporation defined in section two of this article is hereby declared to be a scientific, nonprofit institution and exempt from the payment of all property and other taxes. Every corporation, to the same extent the 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 said article, examinations shall be conducted at least once every four years; article four (general provisions), except that section sixteen of said article shall not be applicable thereto; article six, section thirty-four (fee for form and rate filing); article six-c (guaranteed loss ratio); article seven (assets and liabilities); article eleven (unfair trade practices); article twelve (agents, brokers and solicitors), except that the agent's license fee shall be five dollars; section fourteen, article fifteen (individual accident and sickness insurance); article fifteen-a (long-term care insurance); section three, article sixteen (required policy provisions); section three-a, article sixteen (mental illness); section three-c, article sixteen (group accident and sickness insurance); section three-d, article sixteen (medicare supplement insurance); section three-f, article sixteen (treatment
of temporomandibular joint disorder and craniomandibular disorder); article sixteen-a (group health insurance conversion); article sixteen-c (small employer group policies); article sixteen-d (marketing and rate practices for small employers); article twenty-six-a (West Virginia life and health insurance guaranty association act), after the first day of October, one thousand nine hundred ninety-one; article twenty-seven (insurance holding company systems); article twenty-eight (individual accident and sickness insurance minimum standards); article thirty-three (annual audited financial report); article thirty-four (administrative supervision); article thirty-four-a (standards and commissioner's authority for companies deemed to be in hazardous financial condition); article thirty-five (criminal sanctions for failure to report impairment); and article thirty-seven (managing general agents); and no other provision of this chapter may apply to these corporations unless specifically made applicable by the provisions of this article. If, however, the corporation is converted into a corporation organized for a pecuniary profit or if it transacts business without having obtained a license as required by section five of this article, it shall thereupon forfeit its right to these exemptions.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-6. Supervision and regulation by insurance commissioner; exemption from insurance laws.

Corporations organized under this article are subject to supervision and regulation of the insurance commissioner. The corporations organized under this article, to the same extent these 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 four (general provisions), except that section sixteen of said article shall not be applicable thereto; article six-c (guaranteed loss ratio); article seven (assets and liabilities); article eight (investments); article ten (rehabilitation and liquidation);
14 section fourteen, article fifteen (individual accident
15 and sickness insurance); section three, article sixteen
16 (required policy provisions); article sixteen-a (group
17 health insurance conversion); article sixteen-c (small
18 employer group policies); article sixteen-d (marketing
19 and rate practices for small employers); article twenty-
20 six-a (West Virginia life and health insurance guaranty
21 association act); article twenty-seven (insurance hold-
22 ing company systems); article thirty-three (annual
23 audited financial report); article thirty-four-a (stan-
24 dards and commissioner’s authority for companies
25 deemed to be in hazardous financial condition); article
26 thirty-five (criminal sanctions for failure to report
27 impairment); and article thirty-seven (managing
28 general agents); and no other provision of this chapter
29 may apply to these corporations unless specifically
30 made applicable by the provisions of this article.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

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

1 (a) 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 (b) 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
or advertising by health professions: Provided, That
nothing contained herein shall be construed as autho-
rising any solicitation or advertising which identifies
or refers to any individual provider or makes any
qualitative judgment concerning any provider.

(c) 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.

(d) The provisions of section fifteen, article four
(general provisions); article six-c (guaranteed loss
ratio); article seven (assets and liabilities); article eight
(investments); section fourteen, article fifteen (individ-
ual accident and sickness insurance); article fifteen-b
(uniform health care administration act); section
three, article sixteen (required policy provisions);
section three-f, article sixteen (treatment of temporo-
mandibular disorder and craniomandibular disorder);
article sixteen-a (group health insurance conversion);
article sixteen-c (small employer group policies);
article sixteen-d (marketing and rate practices for
small employers); article twenty-seven (insurance
holding company systems); article thirty-four-a (stan-
dards and commissioner's authority for companies
deemed to be in hazardous financial condition); article
thirty-five (criminal sanctions for failure to report
impairment) and article thirty-seven (managing
general agents) shall be applicable to any health
maintenance organization granted a certificate of
authority under this article.

(e) Any long-term care insurance policy delivered or
issued for delivery in this state by a health mainte-
nance organization shall comply with the provisions of
article fifteen-a of this chapter.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 13th day of April, 1993.

Governor