

# VIRGINIA ACTS OF ASSEMBLY -- 2018 SESSION

## CHAPTER 471

*An Act to amend and reenact § 38.2-3541 of the Code of Virginia, relating to group accident and sickness insurance policies; eligibility for continuation of coverage after termination; gross misconduct.*

[H 1368]

Approved March 23, 2018

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-3541 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-3541. Continuation on termination of eligibility.**

A. Each group hospital policy, group medical and surgical policy, or group major medical policy delivered or issued for delivery in the Commonwealth or renewed, reissued, or extended if already issued, shall contain a provision for continuation of coverage under the group policy if the insurance on a person covered under such a policy ceases because of the termination of the person's eligibility for coverage, prior to that person becoming eligible for Medicare or Medicaid benefits. This provision shall not be applicable if the group policyholder is required by federal law to provide for continuation of coverage under its group health plan pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

B. The insured's present coverage shall continue under the policy for a period of 12 months immediately following the date of the termination of the person's eligibility, without evidence of insurability, subject to the following requirements:

1. The application and payment for the extended coverage is made to the group policyholder within 31 days after issuance of the written notice required in subsection C, but in no event beyond the 60-day period following the date of the termination of the person's eligibility;

2. Each premium for such extended coverage is timely paid to the group policyholder on a monthly basis during the 12-month period;

3. The premium for continuing the group coverage shall be at the insurer's current rate applicable to the group policy plus any applicable administrative fee not to exceed two percent of the current rate; **and**

4. Continuation shall only be available to an employee or member who has been continuously insured under the group policy during the entire three-month period immediately preceding termination of eligibility; **and**

5. *Continuation shall not be available to an individual whose eligibility for coverage under the group policy ceased because the individual was discharged from employment by the group policyholder for gross misconduct. As used in this subdivision, "gross misconduct" means any conduct connected with the individual's work that would constitute misconduct under § 60.2-618, including deliberately and willfully engaging in conduct evincing a complete disregard for the employer's workplace standards and policies.*

C. The group policyholder shall provide each employee or other person covered under such a policy written notice of the availability of continuation of coverage and the procedures and timeframes for obtaining continuation of the group policy. Such notice shall be provided within 14 days of the policyholder's knowledge of the employee's or other covered person's loss of eligibility under the policy.