

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

5 [H 1368]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 38.2-3541 of the Code of Virginia is amended and reenacted as follows:**9 **§ 38.2-3541. Continuation on termination of eligibility.**

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

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

21 1. The application and payment for the extended coverage is made to the group policyholder within  
22 31 days after issuance of the written notice required in subsection C, but in no event beyond the 60-day  
23 period following the date of the termination of the person's eligibility;

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

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

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

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

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

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