

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

463B0529

## HOUSE BILL NO. 1214

Introduced by: Representatives Munson (Donald), Duniphan, Fischer-Clemens, Moore, and Pummel and Senators Hunhoff, Dennert, and Symens

1 FOR AN ACT ENTITLED, An Act to require continuation and conversion of health care  
2 coverage when an employer ceases operations.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Every health benefit program that is self-insured, and every policy of group health  
5 insurance providing benefits for hospital or medical expenses delivered or issued for delivery in  
6 this state, by a commercial health insurance company, by a nonprofit medical and surgical service  
7 plan corporation, by a nonprofit hospital service plan corporation, by a health maintenance  
8 organization, or by any other similar mechanism shall, in addition to the provisions required by  
9 law, include the right of each employee, upon their employer ceasing operations and the  
10 termination of the policy or contract, to have the coverage continue for themselves and their  
11 eligible dependents for a period of eighteen months for which the employee shall be financially  
12 responsible.

13 Section 2. Each plan of benefits, contract, or policy stated in section 1 of this Act shall also  
14 provide an employee with the right, upon the employer ceasing operations and the termination  
15 of the policy or contract, to an individual conversion policy or contract without additional

1 underwriting restrictions. The conversion policy shall consist of a plan of individual coverage that  
2 closely approximates the coverage provided under the group, and shall be renewable at the  
3 option of the insured.

4 Section 3. Continuation and conversion shall only be available to an employee who has been  
5 continuously insured under the group policy and for similar benefits under any group policy  
6 which it replaced during the entire six-month period ending with such termination.

7 Section 4. Written notice of termination of group coverage shall be provided by the employer  
8 to each employee having coverage within ten days of termination. The notice shall contain such  
9 information as required by the director.

10 Section 5. Any employee may exercise the right to continuation or conversion within thirty  
11 days of receipt of due notice of termination of coverage of the group and upon payment of  
12 premiums from the date of termination.

13 Section 6. The conversion policy shall cover the employee who was covered by the group  
14 policy on the date of termination of insurance. At the option of the insurer, a separate conversion  
15 policy may be issued to cover any dependent.

16 Section 7. No insurer may be required to offer or renew a continuation or conversion policy  
17 covering any person if:

- 18 (1) The person is covered for similar benefits by another individual or group policy;
- 19 (2) Similar benefits are provided for or available to such person, by reason of any state  
20 or federal law;
- 21 (3) The benefits under sources of the kind referred to in subdivision (1) for such person  
22 or benefits provided or available under sources of the kind referred to in subdivision  
23 (2) for such person, together with the continued or converted policy's benefits, would  
24 result in overinsurance according to the insurer's standards for overinsurance;
- 25 (4) There has been fraud or material misrepresentation in applying for any benefits under

1 continued or converted policy;

2 (5) The person failed to pay any required contribution; or

3 (6) Cancellation of all similar insurance policies in the entire state.

4 Section 8. The premium for the conversion policy shall be determined in accordance with the  
5 insurer's table of premium rates applicable to the age and class of risk for each person to be  
6 covered under that policy and to the type and amount of insurance provided. The premium for  
7 a continuation policy may not be greater than one hundred twenty-five percent of the group rate  
8 under which a person is covered.

9 Section 9. A notification of the continuation and conversion rights shall be included in each  
10 certificate of coverage.

11 Section 10. The insurer may elect to provide group insurance coverage in lieu of the issuance  
12 of a converted individual policy.