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SENATE BILL NO. 287

Offered January 18, 2000

A BILL to amend the Code of Virginia by adding in Title 8.01 a chapter numbered 21.1:01, consisting of a section numbered 8.01-581.20:1, relating to managed care health insurance plans; liability for health care coverage decisions.

Patrons—Edwards, Byrne, Couric, Holland, Houck, Howell, Lambert, Lucas, Marsh, Marye, Maxwell, Miller, Y.B., Puckett, Puller, Reynolds, Saslaw, Ticer and Whipple; Delegates: Brink, Cranwell, Day, Grayson, Jackson, McEachin, Moran, Watts and Woodrum

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 8.01 a chapter numbered 21.1:01, consisting of a section numbered 8.01-581.20:1 as follows:

CHAPTER 21.1:01.**LIABILITY FOR HEALTH CARE COVERAGE DECISIONS UNDER MANAGED CARE HEALTH INSURANCE PLANS.**

§ 8.01-581.20:1. Managed care health insurance plans; liability for health care coverage decisions.

A. For purposes of this section:

"Covered person" means any individual who is enrolled under or otherwise covered by a managed care health insurance plan issued in Virginia or issued for delivery in Virginia by a health carrier.

"Health carrier" means any entity that offers a managed care health insurance plan.

"Managed care health insurance plan" has the same meaning as provided in § 38.2-5800.

B. A health carrier has the duty to exercise ordinary care in making any decision regarding the provision of coverage for health care services under the applicable managed care health insurance plan.

C. A health carrier shall be liable for damages arising from injury to or death of a covered person proximately caused by the health carrier's negligence in making any decision that results in a delay in, or denial of, the provision of health care services.

D. This chapter shall not be construed to create liability on the part of a health carrier for any refusal to extend coverage to health care services that are not covered by the managed care health insurance plan.

E. The provisions of Article 1 (§ 8.01-581.1 et seq.) and Article 2 (§ 8.01-581.13 et seq.) of Chapter 21.1 of this title governing medical malpractice review panels and limiting recovery in certain medical malpractice actions, respectively, shall not apply to actions brought pursuant to this chapter. In addition, the provisions of Article 1.2 (§ 32.1-137.7 et seq.) and Article 2.1 (§ 32.1-138.6) of Chapter 5 of Title 32.1 governing utilization review standards and appeals and private review agents, respectively, shall not apply to actions brought pursuant to this chapter.

INTRODUCED

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