

# VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

## CHAPTER 242

*An Act to amend the Code of Virginia by adding a section numbered 38.2-3407.11:3, relating to preexisting conditions; breast cancer.*

[H 2063]

Approved March 14, 2001

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

**1. That the Code of Virginia is amended by adding a section numbered 38.2-3407.11:3 as follows:**

*§ 38.2-3407.11:3. Breast cancer underwriting and preexisting condition restrictions.*

*A. No (i) insurer proposing to issue group accident and sickness insurance policies or individual health insurance coverage providing hospital, medical and surgical, major medical or cancer-only coverage on an expense-incurred basis, and policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans; (ii) corporation providing individual or group accident and sickness subscription contracts; or (iii) health maintenance organization providing a health care plan for health care services shall deny the issuance or renewal of, or cancel, a policy, subscription contract or plan or include any exception or exclusion of benefits in such policy, subscription contract or plan for the following:*

*1. Solely because the insured has been diagnosed as having a fibrocystic condition or a nonmalignant lesion, or solely due to the family history of the insured related to breast cancer, or solely due to any combination of these factors; or*

*2. Solely due to breast cancer, if the insured has been free from breast cancer for a period of five years or more prior to the date of application for coverage. In the case of coverage subject to §§ 38.2-3432.3, 38.2-3514.1 or § 38.2-3605, the provisions of those sections shall be controlling as to the extent of any preexisting conditions period under such coverage.*

*Benefits provided under a policy, subscription contract or plan for such insureds shall be provided with durational limits, deductibles, coinsurance factors, and copayments that are no less favorable than for physical illness generally.*

*B. No (i) insurer proposing to issue group accident and sickness insurance policies or individual health insurance coverage providing hospital, medical and surgical or major medical coverage on an expense-incurred basis, and policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans; (ii) corporation providing individual or group accident and sickness subscription contracts; or (iii) health maintenance organization providing a health care plan for health care services shall consider routine follow-up care, used to determine whether a breast cancer has recurred in a person who has been previously determined to be free of breast cancer as evidenced by negative follow-up care for a period of at least five years following completion of local and adjuvant therapies, to constitute medical advice, diagnosis, care or treatment for purposes of determining a preexisting condition unless evidence of breast cancer is found during, or as a result of, the follow-up care.*

*C. The requirements of this section shall apply to all insurance policies, contracts and plans delivered, issued for delivery, reissued, renewed or extended or at any time when any term of any such policy, contract or plan is changed or any premium adjustment is made. The provisions of this section shall not apply to short-term travel, accident-only, limited or specified disease policies except those providing coverage for cancer on an expense-incurred basis, nor to short-term nonrenewable policies of not more than six months' duration.*