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SENATE BILL NO. 293

Offered January 9, 2002

Prefiled January 8, 2002

A BILL to amend and reenact § 38.2-4302 of the Code of Virginia, relating to health maintenance organizations; net worth requirement.

Patron—Norment

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-4302 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-4302. Issuance of license; fee; minimum net worth; impairment.

A. The Commission shall issue a license to a health maintenance organization after the receipt of a complete application and payment of a \$500 nonrefundable application fee if the Commission is satisfied that the following conditions are met:

1. The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and reputable;

2. The health care plan constitutes an appropriate mechanism for the health maintenance organization to provide or arrange for the provision of, as a minimum, basic health care services or limited health care services on a prepaid basis, except to the extent of reasonable requirements for copayments;

3. The health maintenance organization is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the Commission may consider:

a. The financial soundness of the health care plan's arrangements for health care services and the schedule of prepaid charges used for those services;

b. The adequacy of working capital;

c. Any agreement with an insurer, a health services plan, a government, or any other organization for insuring the payment of the cost of health care services or the provision for automatic applicability of an alternative coverage if the health care plan is discontinued;

d. Any contracts with health care providers that set forth the health care services to be performed and the providers' responsibilities for fulfilling the health maintenance organization's obligations to its enrollees;

e. The deposit of acceptable securities in an amount satisfactory to the Commission, submitted in accordance with § 38.2-4310 as a guarantee that the obligations to the enrollees will be duly performed;

f. The applicant's net worth which shall include minimum net worth in an amount at least equal to the sum of uncovered expenses, but not less than \$600,000, up to a maximum of \$4 million; uncovered expenses shall be amounts determined from the most recently ended calendar quarter pursuant to regulations promulgated by the Commission; and

g. A financial statement of the health maintenance organization on the form required by § 38.2-4307;

4. The enrollees will be given an opportunity to participate in matters of policy and operation as required by § 38.2-4304; and

5. Nothing in the method of operation is contrary to the public interest, as shown in the information submitted pursuant to § 38.2-4301 or Chapter 58 (§ 38.2-5800 et seq.) or by independent investigation. Issuance of a license shall not constitute approval of the forms submitted under subdivisions 5, 6, and 11 of subsection B of § 38.2-4301.

B. A licensed health maintenance organization shall have and maintain at all times the minimum net worth described in subdivision 3. f. of subsection A of this section. *However, a licensed health maintenance organization that provides only dental care services shall have and maintain at all times a net worth, as defined in § 38.2-4300, that at a minimum equals the greater of (i) the lesser of \$4 million or two percent of its annual gross premium income or (ii) \$600,000.*

1. If the Commission finds that the minimum net worth of a domestic health maintenance organization is impaired, the Commission shall issue an order requiring the health maintenance organization to eliminate the impairment within a period not exceeding ninety days. The Commission may by order served upon the health maintenance organization prohibit the health maintenance organization from issuing any new contracts while the impairment exists. If at the expiration of the designated period the health maintenance organization has not satisfied the Commission that the impairment has been eliminated, an order for the rehabilitation or liquidation of the health maintenance organization may be entered as provided in § 38.2-4317.

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59 2. If the Commission finds an impairment of the minimum net worth of any foreign health
60 maintenance organization, the Commission may order the health maintenance organization to eliminate
61 the impairment and restore the minimum net worth to the amount required by this section. The
62 Commission may, by order served upon the health maintenance organization, prohibit the health
63 maintenance organization from issuing any new contracts while the impairment exists. If the health
64 maintenance organization fails to comply with the Commission's order within a period of not more than
65 ninety days, the Commission may, in the manner set out in § 38.2-4316, suspend or revoke the license
66 of the health maintenance organization.

67 3. Prior to December 31, 1999, a health maintenance organization with less than minimum net worth
68 which is licensed on and after June 30, 1998, may continue to operate as a licensed health maintenance
69 organization without a finding of impairment if the licensee has net worth (i) on June 30, 1998, and up
70 to December 31, 1998, in an amount at least equal to the sum of uncovered expenses, but not less than
71 \$300,000, up to a maximum of \$2 million; (ii) on December 31, 1998, and up to June 30, 1999, in an
72 amount at least equal to the sum of uncovered expenses, but not less than \$400,000, up to a maximum
73 of \$2.5 million; and (iii) on June 30, 1999, and up to December 31, 1999, in an amount at least equal
74 to the sum of uncovered expenses, but not less than \$500,000, up to a maximum of \$3 million.