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HOUSE BILL NO. 478

Offered January 11, 2006

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A *BILL to amend the Code of Virginia by adding in Title 38.2 a chapter numbered 63, consisting of sections numbered 38.2-6300 through 38.2-6303, relating to small employer health insurance pooling.*

 Patron—Frederick

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 38.2 a chapter numbered 63, consisting of sections numbered 38.2-6300 through 38.2-6303, as follows:

CHAPTER 63.**SMALL EMPLOYER HEALTH INSURANCE POOLING.****§ 38.2-6300. Definitions.***As used in this chapter:*

"Eligible employee" means an employee who works on a full-time basis and who usually works at least 30 hours a week. The term also includes a sole proprietor, a partner, and an independent contractor, if the sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer. The term does not include:

1. An employee who works on a part-time, temporary, seasonal, or substitute basis; or
2. An employee who is covered under (i) another health benefit plan; (ii) a self-funded or self-insured employee welfare benefit plan that provides health benefits and that is established in accordance with the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.); (iii) the Medicaid program if the employee elects not to be covered; (iv) another federal program, including the CHAMPUS program or Medicare program, if the employee elects not to be covered; or (v) a benefit plan established in another country if the employee elects not to be covered.

"Group health benefit plan" shall mean any health care plan, subscription contract, evidence of coverage, certificate, health services plan, medical or hospital services plan, accident and sickness insurance policy or certificate, or other similar certificate, policy, contract, or arrangement, and any endorsement or rider thereto, offered, arranged, or issued by a carrier to a group contract holder to cover all or a portion of the cost of enrollees (or their eligible dependents) receiving covered health care items or services. Group health benefit plan does not mean (i) health care plans, contracts, or policies issued in the individual market; (ii) coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. or Title XX of the Social Security Act, 42 U.S.C. § 1397 et seq. (Medicaid), 5 U.S.C. § 8901 et seq. (federal employees), 10 U.S.C. § 1071 et seq. (CHAMPUS) or Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 (state employees); (iii) accident only, credit or disability insurance, or long-term care insurance, plans providing only limited health care services under § 38.2-4300 (unless offered by endorsement or rider to a group health benefit plan), CHAMPUS supplement, Medicare supplement, or workers' compensation coverages; (iv) an employee welfare benefit plan (as defined in section 3 (1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002 (1)) that is self-insured or self-funded; or (v) the essential and standard health benefit plans developed pursuant to § 38.2-3431 C.

"Small employer" means an employer who employed an average of at least two employees but not more than 100 eligible employees on business days during the preceding calendar year.

§ 38.2-6301. Pooling by small employers.

A. Two or more small employers electing to be treated as a single employer for purposes of purchasing group health insurance plans shall jointly execute and deliver to the Commissioner a copy of a pooling agreement in a form that complies with requirements established by the Commission. No person that is not a small employer shall be a party to a pooling agreement.

B. The Commission shall adopt rules establishing the form and content of pooling agreements that shall include provisions that address:

1. The appointment of one of the small employers that is party to the agreement as the attorney in fact for all of the small employers that are parties to the agreement, and authorizing the small employer to negotiate and execute, on behalf of all of the small employers, contracts for coverage for the eligible employees under one or more group health benefit plans;

2. The rights, obligations, and liabilities of the parties to the agreement with respect to each other,

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59 *their employees, and any carrier from which they obtain coverage under a group health benefit plan;*

60 *3. The withdrawal of parties from, and the adding of new parties to, the agreement; and*

61 *4. Such other matters as the Commission deems appropriate to facilitate the effective functioning of*
62 *such arrangements.*

63 *C. Upon receipt of an agreement that complies with the provisions of this section, the Commissioner*
64 *shall issue a certificate of compliance to the attorney-in-fact of the parties to the agreement.*

65 *D. The Commissioner is authorized to revoke a certificate of compliance upon determining that a*
66 *violation of any provision of this chapter has occurred.*

67 *E. The attorney-in-fact and the parties to an agreement and their employees are not required to be*
68 *licensed under Chapter 18 (§ 38.2-1800 et seq.) of this title. This exemption from licensure includes an*
69 *attorney-in-fact and any party to the agreement that acts to provide information about and to solicit*
70 *participation in or coverage under the agreement.*

71 *§ 38.2-6302. Provisions relating to group health benefit plans.*

72 *A. The attorney-in-fact of the parties to the agreement is authorized, during any time that a*
73 *certificate of compliance is in effect, to enter into agreements with carriers to obtain coverage under a*
74 *group health benefit plan for the employees and dependents of the small employers that are party to the*
75 *agreement. The attorney-in-fact:*

76 *1. Shall arrange for group health benefit plan coverage for small employers who are parties to the*
77 *agreement with carriers for coverage for eligible employees under one or more group health benefit*
78 *plans;*

79 *2. Shall collect premiums to cover the cost of the group health benefit plan coverage purchased;*

80 *3. May contract with a carrier or third party administrator to provide administrative services to the*
81 *cooperative; and*

82 *4. Shall have sole authority to make benefit elections and perform other administrative functions with*
83 *respect to the group health benefit plan for the small employers that are party to the agreement.*

84 *B. A carrier issuing coverage to the small employers that are party to such an agreement shall:*

85 *1. Deem all of the small employers that are party to an agreement to constitute a single employer*
86 *for purposes of pricing and other terms of the coverage under a group health benefit plan; and*

87 *2. Not limit, restrict, or condition an employer's or employee's choice among benefit plans based on*
88 *health-status-related factors, duration of coverage, or any similar characteristic related to the health*
89 *status or experience of a group or of any member of a group;*

90 *C. The small employers that are party to an agreement under this chapter shall be considered a*
91 *single employer under this title and shall be treated in the same manner as a single employer for the*
92 *purposes of this title, including for the purposes of any provision relating to premium rates and issuance*
93 *and renewal of coverage.*

94 *§ 38.2-6303. Regulations.*

95 *The Commission shall adopt regulations as necessary to implement this chapter and to meet the*
96 *minimum requirements of federal law and regulations.*