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**HOUSE BILL NO. 440**

Offered January 13, 2010

Prefiled January 12, 2010

*A BILL to amend and reenact §§ 38.2-3500 and 38.2-3525 of the Code of Virginia, relating to accident and sickness insurance policies; requirement to provide dependent coverage at expense of participant.*

\_\_\_\_\_  
Patron—Toscano

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Referred to Committee on Commerce and Labor

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

**1. That §§ 38.2-3500 and 38.2-3525 of the Code of Virginia are amended and reenacted as follows:**  
§ 38.2-3500. Form of policy.

A. No individual accident and sickness insurance policy shall be delivered or issued for delivery to any person in this Commonwealth unless:

1. The entire consideration for the policy is expressed in the policy;

2. The time at which the insurance takes effect and terminates is expressed in the policy;

3. The policy insures only one person, except that it may insure eligible family members, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyowner;

4. The exceptions and reductions are set forth in the policy and, except those that are set forth in §§ 38.2-3503 through 38.2-3508, are printed with the benefit provisions to which they apply, or under an appropriate caption, but if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of the exception or reduction shall be included with that benefit provision;

5. Each form, including riders and endorsements, is identified by a form number in the lower left-hand corner of the first page of the form;

6. It contains no provision making any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless that portion is set forth in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the Commission; and

7. It contains a statement about the provisions of subsections A and B of § 32.1-325.2 regarding the status of the Department of Medical Assistance Services as the payor of last resort.

B. If any policy is issued by an insurer domiciled in this Commonwealth for delivery to a person residing in another state, and if the insurance supervisory official of the other state advises the Commission that any such policy is not subject to approval or disapproval by such official, the Commission may by ruling require that such policy meet the standards set forth in this chapter.

C. "Eligible family member" means the (i) spouse, (ii) dependent children, without regard to whether such children reside in the same household as the policyowner, (iii) children under a specified age not greater than ~~nineteen~~ 26 years, and (iv) a qualified child, as defined in subsection B of § 38.2-3525, who may be added to an existing policy, at the option of the policyholder, by rider or endorsement upon payment of any additional required premium, and (v) any person dependent on the policyowner.

§ 38.2-3525. Group accident and sickness insurance coverages of spouses, parents, dependent children, or other persons.

A. Coverage under a group accident and sickness insurance policy, except a policy issued pursuant to subsection B of § 38.2-3521.1, may be extended to insure:

1. The spouse and any child who is (i) under the age of 19 years, (ii) who is a dependent and under the age of ~~25~~ 26 years, or (iii) who is a dependent and a full-time student under ~~25~~ 26 years of age, without regard to whether such child resides in the same household as the insured group member, or any class of spouse and dependent children, of each insured group member who so elects; and

2. Any other class of persons as may mutually be agreed upon by the insurer and the group policyholder.

B. A group accident and sickness insurance policy that provides coverage for dependent children shall make available such coverage, at the option of the insured group member, for one or more qualified children. As used in this subsection, "qualified child" means, with respect to an insured group member, an individual who, but for age, would be treated as a dependent child of the insured group member and who is (i) under 27 years of age and (ii) not enrolled as a participant, beneficiary, or group member, other than under this subsection, § 704 of the federal Employee Retirement Income Security Act of 1974, or § 2704 or § 2746 of the Public Health Act, under any health insurance

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59 *coverage or group health plan. If an insured group member opts to provide coverage for his qualified*  
60 *child under this subsection, any additional premium resulting from the extension of coverage to such*  
61 *person shall be paid by the insured group member.*

62 C. The amount of accident and sickness insurance for the spouse, dependent child, or other person  
63 shall not exceed the amount of accident and sickness insurance for the insured group member.

64 ~~CD.~~ At the insurer's option and subject to the policyholder's election, the coverage for children of the  
65 insured group member may be extended beyond the ages established in subsection A. Any such  
66 extension of coverage shall be as mutually agreed upon by the insurer and the group policyholder.

67 ~~DE.~~ Notwithstanding the provisions of § 38.2-3538, one certificate may be issued for each insured  
68 group member if a statement concerning any spouse's, dependent child's, or other person's coverage is  
69 included in the certificate.

70 ~~EF.~~ When a policy provides coverage for a dependent child who is enrolled based upon the child's  
71 status as a full-time student and such child is unable due to a medical condition to continue as a  
72 full-time student, coverage under the policy for such child nevertheless shall continue in force provided  
73 the child's treating physician certifies to the insurer at the time the child withdraws as a full-time student  
74 that the child's absence is medically necessary. Coverage for such child shall continue in force until the  
75 earlier of (i) the date that is 12 months from the date the child ceases to be a full-time student or (ii)  
76 the date the child no longer qualifies as a dependent child under the terms of the group policy. A child's  
77 status as a full-time student shall be determined in accordance with the criteria specified by the  
78 institution in which the child is enrolled.