

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 32.1-16 and 32.1-137.2 of the Code of Virginia, and §§ 38.2-4214,*  
 3 *38.2-4319, and 38.2-4509 of the Code of Virginia as they are currently effective and as they shall*  
 4 *become effective, and to amend the Code of Virginia by adding in Chapter 3 of Title 38.2 sections*  
 5 *numbered 38.2-316.1 and 38.2-326, relating to the powers of the State Corporation Commission to*  
 6 *perform plan management functions for participation in the federal health benefit exchange*  
 7 *established by the Secretary of the U.S. Department of Health and Human Services pursuant to*  
 8 *§ 1321 of the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18041(c); review*  
 9 *and approval of health insurance premium rates.*

[S 922]

10 Approved

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

12 **1. That §§ 32.1-16 and 32.1-137.2 of the Code of Virginia, and §§ 38.2-4214, 38.2-4319, and**  
 13 **38.2-4509 of the Code of Virginia as they are currently effective and as they shall become effective,**  
 14 **are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of**  
 15 **Title 38.2 sections numbered 38.2-316.1 and 38.2-326 as follows:**

16 **§ 32.1-16. State Department of Health.**

17 **A.** There shall be a State Department of Health in the executive department responsible to the  
 18 Secretary of Health and Human Resources. The Department shall be under the supervision and  
 19 management of the State Health Commissioner. The Commissioner shall carry out his management and  
 20 supervisory responsibilities in accordance with the policies, rules and regulations of the Board.

21 **B.** *In addition to other duties imposed on the Department pursuant to this title, the Department shall*  
 22 *assist in the plan management functions of the federal health benefit exchange established by the*  
 23 *Secretary of the U.S. Department of Health and Human Services pursuant to § 1321 of the Patient*  
 24 *Protection and Affordable Care Act codified as 42 U.S.C. § 18041(c) in the Commonwealth, including*  
 25 *providing assistance to the State Corporation Commission in its performance of plan management*  
 26 *functions as set forth in § 38.2-326. The Department shall be compensated for expenses incurred in*  
 27 *providing such services.*

28 **§ 32.1-137.2. Certification of quality assurance; application; issuance; denial; renewal.**

29 **A.** Every managed care health insurance plan licensee shall request a certificate of quality assurance  
 30 with reference to its managed care health insurance plans simultaneously with filing an initial application  
 31 to the Bureau of Insurance for licensure. If already licensed by the Bureau of Insurance, every managed  
 32 care health insurance plan licensee may file an application for quality assurance certification with the  
 33 Department of Health by December 1, 1998, and shall file an application for quality assurance  
 34 certification with the Department of Health by December 1, 1999, in order to obtain its certificate of  
 35 quality assurance by July 1, 2000.

36 **On or before July 1, 2000, the State Health Commissioner shall certify to the Bureau of Insurance**  
 37 **that a managed care health insurance plan licensee has been issued a certificate of quality assurance by**  
 38 **providing the Bureau of Insurance with a copy of each certificate at the time of issuance.**

39 **Application for a certificate of quality assurance shall be made on a form prescribed by the Board**  
 40 **and shall be accompanied by a fee based upon a percentage, not to exceed one-tenth of one percent, of**  
 41 **the proportion of direct gross premium income on business done in this Commonwealth attributable to**  
 42 **the operation of managed care health insurance plans in the preceding biennium, sufficient to cover**  
 43 **reasonable costs for the administration of the quality assurance program. Such fee shall not exceed**  
 44 **\$10,000 per licensee. Whenever the account of the program shows expenses for the past biennium to be**  
 45 **more than ten percent greater or lesser than the funds collected, the Board shall revise the fees levied by**  
 46 **it for certification so that the fees are sufficient, but not excessive, to cover expenses; provided that such**  
 47 **fees shall not exceed the limits set forth in this section. *Until July 1, 2014, the Department may utilize***  
 48 ***such certification funds as are needed in fulfilling its responsibilities pursuant to subsection B of***  
 49 ***§ 32.1-16.***

50 **All applications, including those for renewal, shall require (i) a description of the geographic area to**  
 51 **be served, with a map clearly delineating the boundaries of the service area or areas, (ii) a description of**  
 52 **the complaint system required under § 32.1-137.6, (iii) a description of the procedures and programs**  
 53 **established by the licensee to assure both availability and accessibility of adequate personnel and**  
 54 **facilities and to assess the quality of health care services provided, and (iv) a list of the licensee's**  
 55 **managed care health insurance plans.**

57 B. Every managed care health insurance plan licensee certified under this article shall renew its  
58 certificate of quality assurance with the Commissioner biennially by July 1, subject to payment of the  
59 fee.

60 C. The Commissioner shall periodically examine or review each applicant for certificate of quality  
61 assurance or for renewal thereof.

62 No certificate of quality assurance may be issued or renewed unless a managed care health insurance  
63 plan licensee has filed a completed application and made payment of a fee pursuant to subsection A of  
64 this section and the Commissioner is satisfied, based upon his examination, that, to the extent  
65 appropriate for the type of managed care health insurance plan under examination, the managed care  
66 health insurance plan licensee has in place and complies with: (i) a complaint system for reasonable and  
67 adequate procedures for the timely resolution of written complaints pursuant to § 32.1-137.6; (ii) a  
68 reasonable and adequate system for assessing the satisfaction of its covered persons; (iii) a system to  
69 provide for reasonable and adequate availability of and accessibility to health care services for its  
70 covered persons; (iv) reasonable and adequate policies and procedures to encourage the appropriate  
71 provision and use of preventive services for its covered persons; (v) reasonable and adequate standards  
72 and procedures for credentialing and recredentialing the providers with whom it contracts; (vi)  
73 reasonable and adequate procedures to inform its covered persons and providers of the managed care  
74 health insurance plan licensee's policies and procedures; (vii) reasonable and adequate systems to assess,  
75 measure, and improve the health status of covered persons, including outcome measures, (viii)  
76 reasonable and adequate policies and procedures to ensure confidentiality of medical records and patient  
77 information to permit effective and confidential patient care and quality review; (ix) reasonable, timely  
78 and adequate requirements and standards pursuant to § 32.1-137.9; and (x) such other requirements as  
79 the Board may establish by regulation consistent with this article.

80 Upon the issuance or reissuance of a certificate, the Commissioner shall provide a copy of such  
81 certificate to the Bureau of Insurance.

82 D. Upon determining to deny a certificate, the Commissioner shall notify such applicant in writing  
83 stating the reasons for the denial of a certificate. A copy of such notification of denial shall be provided  
84 to the Bureau of Insurance. Appeals from a notification of denial shall be brought by a certificate  
85 applicant pursuant to the process set forth in § 32.1-137.5.

86 E. The State Corporation Commission shall give notice to the Commissioner of its intention to issue  
87 an order based upon a finding of insolvency, hazardous financial condition, or impairment of net worth  
88 or surplus to policyholders or an order suspending or revoking the license of a managed care health  
89 insurance plan licensee; and the Commissioner shall notify the Bureau of Insurance when he has  
90 reasonable cause to believe that a recommendation for the suspension or revocation of a certificate of  
91 quality assurance or the denial or nonrenewal of such a certificate may be made pursuant to this article.  
92 Such notifications shall be privileged and confidential and shall not be subject to subpoena.

93 F. No certificate of quality assurance issued pursuant to this article may be transferred or assigned  
94 without approval of the Commissioner.

95 **§ 38.2-316.1. Premium rates.**

96 *The Commission shall review and approve accident and sickness insurance premium rates applicable*  
97 *to (i) health benefit plans issued in this Commonwealth in the individual and small group markets, as*  
98 *those terms are defined in § 38.2-3431, and (ii) health benefit plans providing health insurance*  
99 *coverage, as defined in § 38.2-3431, in the individual market to residents of the Commonwealth through*  
100 *a group trust, association, purchasing cooperative, or other group that is not an employer plan. The*  
101 *Commission shall promulgate regulations to establish standards applicable to such review and approval.*

102 **§ 38.2-326. Plan management functions.**

103 *A. The Commission, with the assistance of the Virginia Department of Health, shall perform plan*  
104 *management functions required to certify health benefit plans and stand-alone dental plans for*  
105 *participation in the federal health benefit exchange established by the Secretary of the U.S. Department*  
106 *of Health and Human Services pursuant to § 1321 of the Patient Protection and Affordable Care Act*  
107 *codified as 42 U.S.C. § 18041(c) in the Commonwealth, provided that: (i) full funding is available; (ii)*  
108 *the technology infrastructure, including integration with federal, state, and other necessary entities, is*  
109 *made available to the Commission by or through the U.S. Department of Health and Human Services or*  
110 *the Virginia Secretary of Health and Human Resources in order for it to carry out the plan management*  
111 *functions authorized in this section; (iii) there are no other impediments that effectively prevent the*  
112 *Commission from performing any required plan management functions; and (iv) the performance of such*  
113 *plan management functions is not deemed to establish a health benefit exchange pursuant to § 1311 of*  
114 *the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18031. For purposes of this*  
115 *section, "plan management functions" means analyses and reviews necessary to support the certification,*  
116 *decertification, and recertification of qualified health plans and stand-alone dental plans for the federal*  
117 *health benefit exchange established by the Secretary of the U.S. Department of Health and Human*

118 *Services pursuant to § 1321 of the Patient Protection and Affordable Care Act codified as 42 U.S.C.*  
 119 *§ 18041(c), and the collection of data necessary to perform the above functions.*

120 *B. The Commission may contract with and enter into memoranda of understanding to carry out its*  
 121 *plan management functions with the U.S. Department of Health and Human Services or any other state*  
 122 *or federal agency, provided that entering into such contracts or memoranda of understanding are not*  
 123 *deemed to establish a health benefit exchange pursuant to § 1311 of the Patient Protection and*  
 124 *Affordable Care Act codified as 42 U.S.C. § 18031.*

125 *C. The Commission's obligation to perform plan management functions described in subsection A is*  
 126 *contingent upon receiving federal funding sufficient to pay the operating expenses necessary to carry out*  
 127 *the plan management functions. The Commission shall seek full reimbursement from the U.S.*  
 128 *Department of Health and Human Services for such expenses.*

129 *D. The Commission shall not use any special fund revenues dedicated to its other functions and*  
 130 *duties, including, but not limited to, revenues from utility consumer taxes or fees from licensees or*  
 131 *registrants regulated by the Commission or fees paid to the Clerk's Office, to fund the plan management*  
 132 *functions.*

133 *E. Technology resources provided by the Commission in carrying out the plan management functions*  
 134 *shall be limited to existing Commission technology support functions such as desktop support, network*  
 135 *administration support, web services support, or other similar support functions.*

136 *F. The Commission shall make available to the public on its website a written report on the*  
 137 *implementation and performance of its plan management functions during the preceding fiscal year,*  
 138 *including, at a minimum, the manner in which all funds utilized for its plan management functions were*  
 139 *expended.*

140 **§ 38.2-4214. (Effective until July 1, 2014) Application of certain provisions of law.**

141 No provision of this title except this chapter and, insofar as they are not inconsistent with this  
 142 chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230,  
 143 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-326, 38.2-400, 38.2-402 through 38.2-413,  
 144 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, 38.2-700 through 38.2-705, 38.2-900 through  
 145 38.2-904, 38.2-1017, 38.2-1018, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300 et  
 146 seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, 38.2-1317  
 147 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1444, 38.2-1800 through 38.2-1836,  
 148 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3406.2, 38.2-3407.1 through  
 149 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.18, 38.2-3409, 38.2-3411 through 38.2-3419.1,  
 150 38.2-3430.1 through 38.2-3446, 38.2-3501, 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of  
 151 § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare  
 152 supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541 through  
 153 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et  
 154 seq.), §§ 38.2-3600 through 38.2-3607, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et  
 155 seq.), and Chapter 58 (§ 38.2-5800 et seq.) of this title shall apply to the operation of a plan.

156 **§ 38.2-4214. (Effective July 1, 2014) Application of certain provisions of law.**

157 No provision of this title except this chapter and, insofar as they are not inconsistent with this  
 158 chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230,  
 159 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-326, 38.2-400, 38.2-402 through 38.2-413,  
 160 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, 38.2-700 through 38.2-705, 38.2-900 through  
 161 38.2-904, 38.2-1017, 38.2-1018, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300 et  
 162 seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, 38.2-1317  
 163 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1444, 38.2-1800 through 38.2-1836,  
 164 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3406.2, 38.2-3407.1 through  
 165 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.18, 38.2-3409, 38.2-3411 through 38.2-3419.1,  
 166 38.2-3430.1 through 38.2-3437, 38.2-3501, 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of  
 167 § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare  
 168 supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541,  
 169 38.2-3541.1, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35,  
 170 §§ 38.2-3600 through 38.2-3607, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.),  
 171 Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 of this title shall apply to the operation of a plan.

172 **§ 38.2-4319. (Effective until July 1, 2014) Statutory construction and relationship to other laws.**

173 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this  
 174 chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218  
 175 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-326, 38.2-400,  
 176 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9  
 177 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2  
 178 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.) and 5 (§ 38.2-1322 et

179 seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14,  
 180 §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through  
 181 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.18, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1:01,  
 182 38.2-3414.1, 38.2-3418.1 through 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through 38.2-3446, 38.2-3500,  
 183 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1  
 184 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.1, 38.2-3541.2, 38.2-3542,  
 185 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), Chapter  
 186 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be  
 187 applicable to any health maintenance organization granted a license under this chapter. This chapter shall  
 188 not apply to an insurer or health services plan licensed and regulated in conformance with the insurance  
 189 laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance  
 190 organization.

191 B. For plans administered by the Department of Medical Assistance Services that provide benefits  
 192 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title  
 193 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,  
 194 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229,  
 195 38.2-232, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through  
 196 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1,  
 197 Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et  
 198 seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et  
 199 seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6 and  
 200 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of  
 201 § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14,  
 202 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500,  
 203 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1  
 204 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter  
 205 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be  
 206 applicable to any health maintenance organization granted a license under this chapter. This chapter shall  
 207 not apply to an insurer or health services plan licensed and regulated in conformance with the insurance  
 208 laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance  
 209 organization.

210 C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives  
 211 shall not be construed to violate any provisions of law relating to solicitation or advertising by health  
 212 professionals.

213 D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful  
 214 practice of medicine. All health care providers associated with a health maintenance organization shall  
 215 be subject to all provisions of law.

216 E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health  
 217 maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to  
 218 offer coverage to or accept applications from an employee who does not reside within the health  
 219 maintenance organization's service area.

220 F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and  
 221 B shall be construed to mean and include "health maintenance organizations" unless the section cited  
 222 clearly applies to health maintenance organizations without such construction.

223 **§ 38.2-4319. (Effective July 1, 2014) Statutory construction and relationship to other laws.**

224 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this  
 225 chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218  
 226 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-326, 38.2-400,  
 227 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9  
 228 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2  
 229 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), and 5 (§ 38.2-1322  
 230 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14,  
 231 §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through  
 232 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.18, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1:01,  
 233 38.2-3414.1, 38.2-3418.1 through 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500,  
 234 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1  
 235 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.1, 38.2-3541.2, 38.2-3542,  
 236 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55  
 237 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 shall be applicable to any health  
 238 maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer  
 239 or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42

240 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

241 B. For plans administered by the Department of Medical Assistance Services that provide benefits  
 242 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title  
 243 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,  
 244 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229,  
 245 38.2-232, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through  
 246 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1,  
 247 Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et  
 248 seq.), and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et  
 249 seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6,  
 250 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of  
 251 § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14,  
 252 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500,  
 253 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1  
 254 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter  
 255 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and  
 256 § 38.2-5903 shall be applicable to any health maintenance organization granted a license under this  
 257 chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in  
 258 conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the  
 259 activities of its health maintenance organization.

260 C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives  
 261 shall not be construed to violate any provisions of law relating to solicitation or advertising by health  
 262 professionals.

263 D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful  
 264 practice of medicine. All health care providers associated with a health maintenance organization shall  
 265 be subject to all provisions of law.

266 E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health  
 267 maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to  
 268 offer coverage to or accept applications from an employee who does not reside within the health  
 269 maintenance organization's service area.

270 F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and  
 271 B shall be construed to mean and include "health maintenance organizations" unless the section cited  
 272 clearly applies to health maintenance organizations without such construction.

273 **§ 38.2-4509. (Effective until July 1, 2014) Application of certain laws.**

274 A. No provision of this title except this chapter and, insofar as they are not inconsistent with this  
 275 chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229,  
 276 38.2-316, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through  
 277 38.2-620, 38.2-900 through 38.2-904, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300  
 278 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, Article 4  
 279 (§ 38.2-1317 et seq.) of Chapter 13, §§ 38.2-1400 through 38.2-1444, 38.2-1800 through 38.2-1836,  
 280 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3407.10, 38.2-3407.13, 38.2-3407.14, 38.2-3407.15, 38.2-3407.17,  
 281 38.2-3415, 38.2-3541, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, §§ 38.2-3600 through 38.2-3603,  
 282 Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) of this title shall apply to the  
 283 operation of a plan.

284 B. The provisions of subsection A of § 38.2-322 shall apply to an optometric services plan. The  
 285 provisions of subsection C of § 38.2-322 shall apply to a dental services plan.

286 C. The provisions of Article 1.2 (§ 32.1-137.7 et seq.) of Chapter 5 of Title 32.1 shall not apply to  
 287 either an optometric or dental services plan.

288 **§ 38.2-4509. (Effective July 1, 2014) Application of certain laws.**

289 A. No provision of this title except this chapter and, insofar as they are not inconsistent with this  
 290 chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229,  
 291 38.2-316, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through  
 292 38.2-620, 38.2-900 through 38.2-904, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300  
 293 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, Article 4  
 294 (§ 38.2-1317 et seq.) of Chapter 13, §§ 38.2-1400 through 38.2-1444, 38.2-1800 through 38.2-1836,  
 295 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3407.10, 38.2-3407.13, 38.2-3407.14, 38.2-3407.15, 38.2-3407.17,  
 296 38.2-3415, 38.2-3541, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, §§ 38.2-3600 through 38.2-3603,  
 297 Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 of this title shall  
 298 apply to the operation of a plan.

299 B. The provisions of subsection A of § 38.2-322 shall apply to an optometric services plan. The  
 300 provisions of subsection C of § 38.2-322 shall apply to a dental services plan.

301 C. The provisions of Article 1.2 (§ 32.1-137.7 et seq.) of Chapter 5 of Title 32.1 shall not apply to  
302 either an optometric or dental services plan.  
303 **2. That no agent, employee, officer, or agency of the Commonwealth, including but not limited to**  
304 **the State Corporation Commission and the Virginia Department of Health, is authorized to take**  
305 **any action to establish, or that could be deemed to establish, a health benefit exchange pursuant to**  
306 **§ 1311 of the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18031.**