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SENATE BILL NO. 639

Offered January 18, 2016

A BILL to amend and reenact §§ 38.2-4214 and 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 34 of Title 38.2 a section numbered 38.2-3419.2, relating to health insurance; proton radiation therapy; standard of clinical evidence for benefit coverage decisions.

Patron—Alexander

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-4214 and 38.2-4319 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 34 of Title 38.2 a section numbered 38.2-3419.2 as follows:

§ 38.2-3419.2. Standard of clinical evidence for decisions on coverage for proton radiation therapy.

A. As used in this section, unless the context requires a different meaning:

"Carrier" means an insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; a corporation providing individual or group accident and sickness subscription contracts; or a health maintenance organization providing a health care plan for health care services.

"Proton radiation therapy" means the advanced form of radiation therapy treatment that utilizes protons as an alternative radiation delivery method for the treatment of tumors.

"Radiation therapy treatment" means a cancer treatment through which a dose of radiation to induce tumor cell death is delivered by means of proton radiation therapy, intensity modulated radiation therapy, brachytherapy, stereotactic body radiation therapy, three-dimensional conformal radiation therapy, or other forms of therapy using radiation.

B. Notwithstanding the provisions of § 38.2-3419, each policy, contract, or plan issued or provided by a carrier that provides coverage for cancer therapy shall not hold proton radiation therapy to a higher standard of clinical evidence for decisions regarding coverage under the policy, contract, or plan than is applied for decisions regarding coverage of other types of radiation therapy treatment.

C. Nothing in this section shall be construed to mandate the coverage of proton radiation therapy under any policy, contract, or plan issued or provided by a carrier.

D. The requirements of this section shall apply to all insurance policies, subscription contracts, and health care plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2017, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

E. This section shall not apply to 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.

§ 38.2-4214. Application of certain provisions of law.

No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 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, 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 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 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 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1442, 38.2-1446, 38.2-1447, 38.2-1800 through 38.2-1836, 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 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.19, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3419.2, 38.2-3430.1 through 38.2-3454, 38.2-3501, 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541 through 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), §§ 38.2-3600 through 38.2-3607, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) of this title shall apply to the operation of a plan.

§ 38.2-4319. Statutory construction and relationship to other laws.

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this

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59 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
60 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,
61 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9
62 (§ 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
63 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et
64 seq.), and 5.1 (§ 38.2-1334.3 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et
65 seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405,
66 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.19,
67 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through
68 38.2-3418.17, 38.2-3419.1, 38.2-3419.2, 38.2-3430.1 through 38.2-3454, 38.2-3500, subdivision 13 of
69 § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through
70 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, Article 5
71 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), Chapter 52 (§ 38.2-5200 et
72 seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any
73 health maintenance organization granted a license under this chapter. This chapter shall not apply to an
74 insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter
75 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

76 B. For plans administered by the Department of Medical Assistance Services that provide benefits
77 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
78 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
79 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,
80 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
81 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,
82 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
83 seq.), 5 (§ 38.2-1322 et seq.), and 5.1 (§ 38.2-1334.3 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et
84 seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405,
85 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and
86 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3,
87 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1,
88 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504,
89 §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2,
90 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.),
91 and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted
92 a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed
93 and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with
94 respect to the activities of its health maintenance organization.

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

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

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

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