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## SENATE BILL NO. 1166

Offered January 11, 2017

Prefiled January 9, 2017

A *BILL to amend and reenact §§ 38.2-4319 and 38.2-4509 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3407.14:1, relating to accident and sickness insurance; prescription drug formularies; abuse-deterrent opioids.*

Patron—Reeves

Referred to Committee on Commerce and Labor

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

**1. That §§ 38.2-4319 and 38.2-4509 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3407.14:1 as follows:**

**§ 38.2-3407.14:1. Coverage for abuse deterrent opioids.**

A. As used in this section:

"Abuse-deterrent opioid" means a brand or generic opioid approved by the U.S. Food and Drug Administration with abuse-deterrent labeling claims that indicate the drug product is expected to result in a meaningful reduction in abuse.

"Health benefit plan" and "health carrier" have the same meanings ascribed to the terms in § 38.2-3556.

"Opioid" means a drug product in the opioid analgesic drug class prescribed to treat moderate to severe pain or other conditions, whether in immediate release or extended release, long-acting form and whether or not combined with other drug substances to form a single drug product or dosage form.

B. Any health carrier offering a health benefit plan in the Commonwealth that provides coverage for prescription drugs and applies a formulary to such coverage under the requirements of § 38.2-3407.9:01 shall offer in its formulary at least two classes of abuse-deterrent opioids as a tier 1 option that does not require the prescribing provider to utilize a preauthorization process.

C. The requirements of this section shall apply to all health benefit plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after July 1, 2017, or at any time thereafter when any term of the health benefit plan is changed or any premium adjustment is made.

**§ 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 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 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 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, Chapter 9 (§ 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 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 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 seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 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 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.19, 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 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through 38.2-3454, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 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, 38.2-3541.2, 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.), Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title except this chapter and, insofar as they are not inconsistent with this 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 through 38.2-225, 38.2-229, 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 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, 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 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 seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401,

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59 38.2-3405, 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,  
60 and 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,  
61 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3407.14:1, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2,  
62 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of  
63 § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1,  
64 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55  
65 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health  
66 maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer  
67 or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42  
68 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

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

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

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

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

82 **§ 38.2-4509. Application of certain laws.**

83 A. No provision of this title except this chapter and, insofar as they are not inconsistent with this  
84 chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229,  
85 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  
86 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  
87 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, Articles 4  
88 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), and 6 (§ 38.2-1335 et seq.) of Chapter 13, §§ 38.2-1400  
89 through 38.2-1442, 38.2-1446, 38.2-1447, 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3404,  
90 38.2-3405, 38.2-3407.1, 38.2-3407.4, 38.2-3407.10, 38.2-3407.13, 38.2-3407.14, 38.2-3407.14:1,  
91 38.2-3407.15, 38.2-3407.17, 38.2-3407.19, 38.2-3415, 38.2-3541, Article 5 (§ 38.2-3551 et seq.) of  
92 Chapter 35, §§ 38.2-3600 through 38.2-3603, Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58  
93 (§ 38.2-5800 et seq.) shall apply to the operation of a plan.

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

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

98 D. The provisions of § 38.2-3407.1 shall apply to claim payments made on or after January 1, 2014.  
99 No optometric or dental services plan shall be required to pay interest computed under § 38.2-3407.1 if  
100 the total interest is less than \$5.