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HOUSE BILL NO. 131

Offered January 10, 2018

Prefiled December 19, 2017

A *BILL to amend and reenact § 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3418.18, relating to health insurance coverage for pain management prescription drugs.*

Patron—Bell, John J.

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-4319 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3418.18 as follows:

§ 38.2-3418.18. Coverage for pain management prescription drugs.

A. Notwithstanding the provisions of § 38.2-3419, each 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; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services, whose policy, contract, or plan, including any certificate or evidence of coverage issued in connection with such policy, contract, or plan, includes coverage for prescription drugs shall provide coverage for alternative pain management prescription drugs prescribed to covered individuals with an opioid dependence disorder.

B. The coverage required pursuant to subsection A shall provide that alternative pain management prescription drugs are on a tier that has cost-sharing requirements that do not exceed the cost-sharing requirements for opioid analgesic drugs with equivalent effectiveness.

C. The coverage required pursuant to subsection A shall be required when a covered individual is prescribed an analgesic primarily in connection with an acute medical condition and shall not be required when such an individual is prescribed an analgesic for a chronic medical condition.

D. As used in this section:

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

"Alternative pain management prescription drug" means a drug product that is either an abuse-deterrent opioid analgesic drug or a non-opioid analgesic drug.

"Cost sharing" means any coverage limit, copayment, coinsurance, deductible, or other out of pocket expense requirements.

"Non-opioid analgesic drug" means a drug product that does not contain an opioid agonist and is indicated by the U.S. Food and Drug Administration for the treatment of pain.

"Opioid analgesic drug" means a drug product that contains an opioid agonist and is indicated by the U.S. Food and Drug Administration for the treatment of pain, regardless of whether the drug product is in immediate release or extended release form or contains other drug substances.

E. No insurer, corporation, or health maintenance organization shall impose upon any person receiving benefits pursuant to this section any copayment, fee, or condition that is not equally imposed upon all individuals in the same benefit category.

F. The provisions of this section shall apply to any policy, contract, or plan delivered, issued for delivery, or renewed in the Commonwealth on and after January 1, 2019.

G. The provisions of this section shall not apply to short-term travel, accident-only, or limited or specified disease policies, or to 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, or to short-term nonrenewable policies of not more than six months' duration.

§ 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

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59 seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400
60 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-1800 through
61 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,
62 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,
63 38.2-3414.1, 38.2-3418.1 through ~~38.2-3418.17~~ 38.2-3418.18, 38.2-3419.1, 38.2-3430.1 through
64 38.2-3454, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1,
65 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,
66 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et
67 seq.), Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800
68 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter.
69 This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance
70 with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its
71 health maintenance organization.

72 B. For plans administered by the Department of Medical Assistance Services that provide benefits
73 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
74 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
75 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,
76 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
77 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057,
78 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
79 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et
80 seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et
81 seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6,
82 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
83 § 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,
84 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,
85 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1
86 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
87 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall
88 be applicable to any health maintenance organization granted a license under this chapter. This chapter
89 shall not apply to an insurer or health services plan licensed and regulated in conformance with the
90 insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health
91 maintenance organization.

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

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

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

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