

LD8180673

## SENATE BILL NO. 403

Offered January 25, 1994

*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 38.2-3415.1, relating to accident and sickness insurance; coverage for certain prescription drugs.*

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Patron—Holland, C.A.

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Referred to the 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 38.2-3415.1 as follows:**

*§ 38.2-3415.1. Coverage for certain FDA-approved drugs.*

*A. No (i) 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, (ii) corporation providing individual or group accident and sickness subscription contracts, (iii) health maintenance organization providing a health care plan for health care services and or (iv) insurer proposing to issue individual or group Medicare supplement policies shall limit or exclude coverage for any drug approved by the United States Food and Drug Administration for use in the treatment of cancer on the basis that the drug has not been approved by the United States Food and Drug Administration for the treatment of the specific type of cancer for which the drug has been prescribed, provided the drug has been recognized as safe and effective for treatment of that specific type of cancer in any of the following standard reference compendia or medical literature:*

*1. The American Medical Association Drug Evaluations;*

*2. The American Hospital Formulary Service Drug Information;*

*3. The United States Pharmacopoeia Dispensing Information;*

*4. Two articles from major peer-reviewed professional medical journals that have not had their recognition of the drug's safety and effectiveness contradicted by clear and convincing evidence presented in another article from a major peer-reviewed professional medical journal.*

*B. Coverage of a drug required by subsection A includes medically necessary services associated with the administration of the drug.*

*C. Subsection A shall not be construed to do any of the following:*

*1. Require coverage for any drug if the United States Food and Drug Administration has determined its use to be contraindicated for the treatment of the specific type of cancer for which the drug has been prescribed;*

*2. Require coverage for experimental drugs not otherwise approved for any indication by the United States Food and Drug Administration;*

*3. Alter any law with regard to provisions limiting the coverage of drugs that have not been approved by the United States Food and Drug Administration;*

*4. Create, impair, alter, limit, modify, enlarge, abrogate, or prohibit reimbursement for drugs used in the treatment of any other disease or condition.*

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

*D. The provisions of this section are applicable to contracts, policies or plans delivered, issued for delivery or renewed in this Commonwealth on and after July 1, 1994.*

*§ 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, 38.2-200, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-316, 38.2-322, 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.) of this title, 38.2-1057, 38.2-1306.2 through 38.2-1310, Article 4 (§ 38.2-1317 et seq.) of Chapter 13, 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3411.2, 38.2-3415.1, 38.2-3418.1, 38.2-3419.1, 38.2-3431, 38.2-3432, 38.2-3500, 38.2-3525, 38.2-3542, and Chapter 53 (§ 38.2-5300 et seq.) of this title 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) of this title except with respect to the activities of its health maintenance organization.*

*B. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health*

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60 professionals.

61 C. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful  
62 practice of medicine. All health care providers associated with a health maintenance organization shall  
63 be subject to all provisions of law.

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