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SENATE BILL NO. 242

Offered January 18, 1996

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 Chapter 5 of Title 38.2 a section numbered 38.2-518, relating to insurance; unfair settlement practices; standards for length of hospital inpatient stay for mother and newborn after childbirth; penalty.

Patrons—Howell, Colgan, Gartlan and Saslaw; Delegates: Almand, McClure, Watts and Woodrum

Referred to the Committee on Education and Health

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 Chapter 5 of Title 38.2 a section numbered 38.2-518 as follows:

§ 38.2-518. *Unfair settlement practices; standards for length of hospital inpatient stay for mother and newborn after childbirth.*

A. Except as provided in subsection B of this section, no person providing inpatient health coverage for maternity and childbirth shall impose limits for inpatient treatment of a mother and her newborn after childbirth of less than forty-eight hours of inpatient care following a vaginal delivery or less than ninety-six hours of inpatient care following a Cesarean section.

B. The minimum lengths of inpatient coverage set forth in subsection A of this section may be shortened, with the written consent of the mother if (i) a shorter length of stay is recommended in accordance with the medical criteria outlined in the most current version of the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or (ii) the mother and newborn meet the criteria for medical stability in the "Guidelines for Perinatal Care" and full coverage for at least two postpartum home visit for the mother and child is provided under the insurance contract.

C. Any person violating this section shall be subject to the injunctive, penalty and enforcement provisions of Chapter 2 (§ 38.2-200 et seq.) of this title.

§ 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, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 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, 38.2-518, 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, 38.2-1317 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1444, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3405.1, 38.2-3407.1 through 38.2-3407.6, 38.2-3407.9, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3425 through 38.2-3429, 38.2-3431, 38.2-3432, 38.2-3500, 38.2-3501, 38.2-3502, 38.2-3514.1, 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3525, 38.2-3540.1, 38.2-3541, 38.2-3542, 38.2-3600 through 38.2-3607 and Chapter 53 (§ 38.2-5300 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 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, 38.2-518, 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 38.2-1309, Article 4 (§ 38.2-1317 et seq.) of Chapter 13, 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3407.2 through 38.2-3407.6, 38.2-3407.9, 38.2-3411.2, 38.2-3418.1, 38.2-3418.1:1, 38.2-3418.2, 38.2-3419.1, 38.2-3431, 38.2-3432, 38.2-3433, 38.2-3500, 38.2-3514.1, 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 et seq.) 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 professionals.

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

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