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SENATE BILL NO. 335

Offered January 22, 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 35 an article numbered 3.1 consisting of sections numbered 38.2-3543.2, 38.2-3543.3 and 38.2-3543.4, relating to the Genetic Information Privacy Act.

Patrons—Howell, Miller, Y.B. and Saslaw; Delegates: Christian, Cunningham, Fisher, Hall and McDonnell

Referred to the 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 Chapter 35 an article numbered 3.1 consisting of sections numbered 38.2-3543.2, 38.2-3543.3 and 38.2-3543.4 as follows:

Article 3.1.

Genetic Information Privacy Act.

§ 38.2-3543.2. Definitions.

As used in this title, unless the context clearly requires a different meaning:

"Genetic information" means information about genes, gene products, or inherited characteristics that may derive from the individual or a family member.

"Genetic test" means a test for determining the presence or absence of genetic characteristics in an individual in order to diagnose a genetic characteristic.

§ 38.2-3543.3. Access to genetic information.

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; or (iii) health maintenance organization providing a health care plan for health care services shall, on the basis of any genetic information obtained concerning an individual or on the individual's request for genetic services, with respect to the policy, contract or plan:

1. Terminate, restrict, limit, or otherwise apply conditions to coverage of an individual or restrict the sale to an individual;

2. Cancel or refuse to renew the coverage of an individual;

3. Exclude an individual from coverage;

4. Impose a waiting period prior to commencement of coverage of an individual;

5. Impose a rider that excludes coverage for certain benefits and services; or

6. Establish differentials in premium rates for coverage.

In addition, no discrimination shall be made in the fees or commissions of a solicitor or solicitor firm for an enrollment or a subscription or the renewal of an enrollment or subscription of any person on the basis of a person's genetic characteristics which may, under some circumstances, be associated with disability in that person or that person's offspring.

§ 38.2-3543.4. Confidentiality of information.

Notwithstanding any other provisions of law, all information obtained from genetic screening or testing conducted prior to the repeal of §§ 38.2-3543.2 and 38.2-3543.3 shall be confidential and shall not be made public nor used in any way, in whole or in part, to cancel, refuse to issue or renew or limit benefits under any health coverage policy issued pursuant to this chapter.

§ 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, 38.2-600 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, Article 3.1 (§ 38.2-3543.2 et seq.) of Chapter 35, 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.

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60 § 38.2-4319. Statutory construction and relationship to other laws.

61 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this
62 chapter, §§ 38.2-100, 38.2-200, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229,
63 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
64 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,
65 Article 4 (§ 38.2-1317 et seq.) of Chapter 13, 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405,
66 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,
67 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,
68 38.2-3542, *Article 3.1* (§ 38.2-3543.2 et seq.) of Chapter 35, and Chapter 53 (§ 38.2-5300 et seq.) of this
69 title shall be applicable to any health maintenance organization granted a license under this chapter. This
70 chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with
71 the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) of this title except with respect to the activities of
72 its health maintenance organization.

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

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

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

83 **2. That the provisions of §§ 38.2-3543.2 and 38.2-3543.3 of this act shall expire on July 1, 1998 but**
84 **the confidentiality of such information shall be protected pursuant to § 38.2-3543.4.**