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## HOUSE BILL NO. 2785

Offered January 20, 1997

*A BILL to amend and reenact §§ 38.2-305, 38.2-4214, 38.2-4308, 38.2-4315 and 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 4 of Title 32.1 an article numbered 7, consisting of § 32.1-122.10:01, relating to accident and sickness insurance; health maintenance organizations; contents of policies; State Health Commissioner review.*

Patrons—Connally, Baker, Brickley, DeBoer, Hall, Heilig, Melvin and Morgan; Senators: Bolling, Gartlan, Lambert, Martin, Schrock, Walker and Woods

Referred to Committee on Corporations, Insurance and Banking

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

**1. That §§38.2-305, 38.2-4214, 38.2-4308, 38.2-4315 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 4 of Title 32.1 an article numbered 7, consisting of § 32.1-122.10:01 as follows:**

*Article 7.*

*Review of Health Services Quality.*

*§ 32.1-122.10:01. Review of health maintenance organizations.*

*A. The State Health Commissioner (the "Commissioner") shall examine the quality of health care services of any health maintenance organization ("HMO") licensed in Virginia pursuant to §§ 38.2-4301 and 38.2-4302 and the providers with whom the organization has contracts, agreements, or other arrangements according to the HMO's health care plan as often as considered necessary for the protection of the interests of the people of this Commonwealth.*

*B. For the purposes of examinations, the Commissioner may review records, take affidavits, and interview the officers and agents of the HMO and the principals of the providers concerning their business.*

*C. The expenses of examinations by or for the Commissioner under this section shall be assessed against the organization being examined and remitted to the Commissioner. The State Corporation Commission, as licensing agency, shall enforce such assessments against its licensees, if necessary, and may impose delinquent fees.*

*D. In making his examination, the Commissioner may consider the report of an examination of a foreign health maintenance organization certified by the insurance supervisory official, a similar regulatory agency, an independent recognized accrediting organization, or the state health commissioner of another state.*

*E. The Commissioner also shall: (i) consult with HMOs in the establishment of their complaint systems as provided in § 38.2-4308; (ii) review and analyze HMOs' complaint reports which are required in subsection B of § 38.2-4308; (iii) assist the State Corporation Commission in examining such complaint systems, as provided in subsection C of § 38.2-4308; and (iv) consult those providers contracting with the HMO regarding its complaint system.*

*F. The Commissioner shall coordinate the activities undertaken pursuant to this section with the State Corporation Commission to ensure an appropriate level of regulatory oversight and to avoid any undue duplication of effort or regulation. The State Corporation Commission shall remain responsible for enforcement or disciplinary actions against its licensees.*

*§ 38.2-305. Contents of policies.*

*A. Each insurance policy or contract shall specify:*

*1. The names of the parties to the contract;*

*2. The subject of the insurance;*

*3. The risks insured against;*

*4. The time the insurance takes effect and, except in the case of group insurance, title insurance, and insurance written under perpetual policies, the period during which the insurance is to continue;*

*5. A statement of the premium, except in the case of group insurance and title insurance; and*

*6. The conditions pertaining to the insurance.*

*B. Each new or renewal insurance policy or contract, certificate or evidence of coverage issued to a policyholder, covered person or enrollee shall be accompanied by a notice stating substantially:*  
**IMPORTANT INFORMATION TO POLICYHOLDERS REGARDING YOUR INSURANCE**

*"In the event you need to contact someone about this policy insurance for any reason please contact your agent. If no agent was involved in the sale of this insurance, or if you have additional questions you may contact the insurance company issuing this policy insurance at the following address and*

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60 telephone number [Insert the appropriate address and telephone number, toll free number if available, for  
61 the company's home or regional office .

62 *[Health Maintenance Organizations should add the following: We recommend that you familiarize*  
63 *yourself with our grievance procedure, and make use of it before taking any other action.]*

64 If you have been unable to contact or obtain satisfaction from the company or the agent, you may  
65 contact the Virginia State Corporation Commission's Bureau of Insurance at: [Insert the appropriate  
66 address, toll free phone number, and phone number for out-of-state calls for the Bureau of Insurance.]

67 Written correspondence is preferable so that a record of your inquiry is maintained. When contacting  
68 your agent, company or the Bureau of Insurance, have your policy number available."

69 C. If, under the contract, the exact amount of premiums is determinable only at the termination of  
70 the contract, a statement of the basis and rates upon which the final premium is to be determined and  
71 paid shall be furnished to any policy-examining bureau having jurisdiction or to the insured upon  
72 request.

73 D. This section shall not apply to surety insurance contracts.

74 § 38.2-4214. Application of certain provisions of law.

75 No provision of this title except this chapter and, insofar as they are not inconsistent with this  
76 chapter, §§ 38.2-200, 38.2-203, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230,  
77 38.2-232, 38.2-305, 38.2-316, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through  
78 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,  
79 38.2-1018, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300 et seq.) and 2  
80 (§ 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,  
81 38.2-1340, 38.2-1400 through 38.2-1444, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401,  
82 38.2-3404, 38.2-3405, 38.2-3405.1, 38.2-3407.1 through 38.2-3407.6, 38.2-3407.9, 38.2-3407.10,  
83 38.2-3407.11, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3431, 38.2-3432, 38.2-3500, 38.2-3501,  
84 38.2-3502, 38.2-3514.1, 38.2-3514.2, 38.2-3516 through 38.2-3520 as they apply to Medicare  
85 supplement policies, §§ 38.2-3525, 38.2-3540.1, 38.2-3541, 38.2-3542, 38.2-3600 through 38.2-3607 and  
86 Chapter 53 (§ 38.2-5300 et seq.) of this title shall apply to the operation of a plan.

87 § 38.2-4308. Complaint system.

88 A. Each health maintenance organization shall establish and maintain a complaint system to provide  
89 reasonable procedures for the resolution of written complaints. The complaint system shall be established  
90 after consultation with the State Health Commissioner and approval by the Commission.

91 B. Each health maintenance organization shall submit to the Commission and the State Health  
92 Commissioner an annual complaint report in a form prescribed by the Commission, after consultation  
93 with the State Health Commissioner. The complaint report shall include (i) a description of the  
94 procedures of the complaint system, (ii) the total number of complaints handled through the complaint  
95 system, (iii) a compilation of causes underlying the complaints filed, and (iv) the number, amount, and  
96 disposition of malpractice claims settled or adjudicated during the year by the health maintenance  
97 organization and any of its health care providers. A record of the complaints shall be maintained for the  
98 period set forth in § 38.2-511.

99 C. The Commission ~~or~~ , in cooperation with the State Health Commissioner ~~may~~, shall examine the  
100 complaint system. *However, at its discretion, the Commission may accept the report of examination*  
101 *conducted by the State Health Commissioner instead of making its own examination.*

102 § 38.2-4315. Examinations.

103 A. The Commission shall examine the affairs of each health maintenance organization as provided  
104 for in § 38.2-1317 at least once every five years. The Commission may examine the affairs of providers  
105 with whom any health maintenance organization has contracts, agreements, or other arrangements  
106 according to its health care plan as often as it considers necessary for the protection of the interests of  
107 the people of this Commonwealth.

108 B. ~~The State Health Commissioner may examine the quality of health care services of any health~~  
109 ~~maintenance organization or providers with whom the organization has contracts, agreements, or other~~  
110 ~~arrangements according to its health care plan as often as considered necessary for the protection of the~~  
111 ~~interests of the people of this Commonwealth.~~

112 C. For the purpose of examinations, the State Health Commissioner may administer oaths to and  
113 examine the officers and agents of the health maintenance organization and the principals of the  
114 providers concerning their business.

115 D. The expenses of examinations by or for the State Health Commissioner under this section shall be  
116 assessed against the organization being examined and remitted to the State Health Commissioner.

117 E. ~~B.~~ Instead of making its own examination, the Commission ~~or State Health Commissioner~~ may  
118 accept the report of an examination of a foreign health maintenance organization certified by the  
119 insurance supervisory official, similar regulatory agency, or the state health commissioner of another  
120 state.

121 C. The Commission shall coordinate such examinations with the State Health Commissioner to

ensure an appropriate level of regulatory oversight and to avoid any undue duplication of effort or regulation. The Commission shall remain responsible for enforcement or disciplinary actions against its licensees.

§ 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, 38.2-305, 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 38.2-1309, 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, 38.2-3407.10, 38.2-3407.11, 38.2-3411.2, 38.2-3414.1, 38.2-3418.1, 38.2-3418.1:1, 38.2-3418.1:2, 38.2-3418.2, 38.2-3419.1, 38.2-3431, 38.2-3432, 38.2-3433, 38.2-3500, 38.2-3514.1, 38.2-3514.2, 38.2-3525, 38.2-3542, Chapter 53 (§ 38.2-5300 et seq.) and Chapter 54 (§ 38.2-5400 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.

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

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

**2. That the State Health Commissioner, in cooperation with the Bureau of Insurance and the Department of Health Professions, be requested to study the quality of health care services provided by health maintenance organizations. The State Health Commissioner also is requested to submit a report by September 1, 1997, to the Governor, the Joint Commission on Health Care and the General Assembly which: (i) recommends the appropriate role of the Commonwealth in monitoring and improving the quality of care in managed care plans which either require or create incentives for covered persons to use health care providers managed, owned, under contract with or employed by the health carrier; (ii) recommends the Commonwealth's role in providing consumer information on managed care issues; (iii) assesses the licensing functions for individual and institutional health care providers currently performed by the Department of Health Professions and the Department of Health, and determines, in light of current health care market conditions, whether any modifications or consolidation of these functions would enhance the Commonwealth's efforts in overseeing the quality of managed care health plans; and (iv) evaluates whether there is a need to establish an external appeals or ombudsman process for resolving consumer complaints regarding managed care plans, and, if so, whether the Department of Health or another entity should administer the process. In formulating his recommendations, the State Health Commissioner is requested to optimize the contributions of other public and private entities such as Virginia Health Information, Inc.'s role in consumer education, as well as identify other public and private partners able to support these functions.**

**3. That, in concert with the State Health Commissioner's examination of the quality of health care services provided by health maintenance organizations, the Department of Health be requested to establish and operate a toll-free telephone service for managed care plan enrollees. The Department's toll-free telephone service shall be coordinated with the Bureau of Insurance's consumer complaint service, and shall provide to managed care plan enrollees consumer information regarding managed care plans and assistance in utilizing existing processes for resolving complaints.**