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## HOUSE BILL NO. 2354

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Corporations, Insurance and Banking  
on February 6, 1999)

(Patron Prior to Substitute—Delegate Keating)

*A BILL to amend and reenact §§ 2.1-20.1 and 38.2-3418.1:2 of the Code of Virginia, relating to coverage for pap smears.*

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

**1. That §§ 2.1-20.1 and 38.2-3418.1:2 of the Code of Virginia are amended and reenacted as follows:**

§ 2.1-20.1. Health and related insurance for state employees.

A. 1. The Governor shall establish a plan for providing health insurance coverage, including chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The Department of Personnel and Training shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. The Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

2. Such contribution shall be financed through appropriations provided by law.

B. The plan shall:

1. a. Include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age thirty-five through thirty-nine, one such mammogram biennially to persons age forty through forty-nine, and one such mammogram annually to persons age fifty and over and may be limited to a benefit of fifty dollars per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally. The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

b. In order to be considered a screening mammogram for which coverage shall be made available under this section:

(1) The mammogram must be (i) ordered by a health care practitioner acting within the scope of his licensure and, in the case of an enrollee of a health maintenance organization, by the health maintenance organization physician, (ii) performed by a registered technologist, (iii) interpreted by a qualified radiologist, and (iv) performed under the direction of a person licensed to practice medicine and surgery and certified by the American Board of Radiology or an equivalent examining body. A copy of the mammogram report must be sent or delivered to the health care practitioner who ordered it;

(2) The equipment used to perform the mammogram shall meet the standards set forth by the Virginia Department of Health in its radiation protection regulations; and

(3) The mammography film shall be retained by the radiologic facility performing the examination in accordance with the American College of Radiology guidelines or state law.

2. Include coverage for the treatment of breast cancer by dose-intensive chemotherapy with autologous bone marrow transplants or stem cell support when performed at a clinical program authorized to provide such therapies as a part of clinical trials sponsored by the National Cancer Institute. For persons previously covered under the plan, there shall be no denial of coverage due to the existence of a preexisting condition.

3. Include coverage for postpartum services providing inpatient care and a home visit or visits which shall be in accordance with the medical criteria, outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be provided incorporating any changes in such Guidelines or Standards within six months of the publication of such Guidelines or Standards or any official amendment thereto.

4. Include an appeals process for resolution of written complaints concerning denials or partial denials of claims that shall provide reasonable procedures for resolution of such written complaints and shall be published and disseminated to all covered state employees. Such appeals process shall include a separate expedited emergency appeals procedure which shall provide resolution within one business day of receipt of a complaint concerning situations requiring immediate medical care.

60 5. Include coverage for early intervention services. For purposes of this section, "early intervention  
61 services" means medically necessary speech and language therapy, occupational therapy, physical therapy  
62 and assistive technology services and devices for dependents from birth to age three who are certified by  
63 the Department of Mental Health, Mental Retardation, and Substance Abuse Services as eligible for  
64 services under Part H of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).  
65 Medically necessary early intervention services for the population certified by the Department of Mental  
66 Health, Mental Retardation, and Substance Abuse Services shall mean those services designed to help an  
67 individual attain or retain the capability to function age-appropriately within his environment, and shall  
68 include services which enhance functional ability without effecting a cure.

69 For persons previously covered under the plan, there shall be no denial of coverage due to the  
70 existence of a preexisting condition. The cost of early intervention services shall not be applied to any  
71 contractual provision limiting the total amount of coverage paid by the insurer to or on behalf of the  
72 insured during the insured's lifetime.

73 6. Include coverage for prescription drugs and devices approved by the United States Food and Drug  
74 Administration for use as contraceptives.

75 7. Not deny coverage for any drug approved by the United States Food and Drug Administration for  
76 use in the treatment of cancer on the basis that the drug has not been approved by the United States  
77 Food and Drug Administration for the treatment of the specific type of cancer for which the drug has  
78 been prescribed, if the drug has been recognized as safe and effective for treatment of that specific type  
79 of cancer in one of the standard reference compendia.

80 8. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has  
81 been approved by the United States Food and Drug Administration for at least one indication and the  
82 drug is recognized for treatment of the covered indication in one of the standard reference compendia or  
83 in substantially accepted peer-reviewed medical literature.

84 9. Include coverage for equipment, supplies and outpatient self-management training and education,  
85 including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using  
86 diabetes, gestational diabetes and noninsulin-using diabetes if prescribed by a healthcare professional  
87 legally authorized to prescribe such items under law. To qualify for coverage under this subdivision,  
88 diabetes outpatient self-management training and education shall be provided by a certified, registered or  
89 licensed health care professional.

90 10. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive  
91 breast surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy  
92 performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish  
93 symmetry between the two breasts. For persons previously covered under the plan, there may be no  
94 denial of coverage due to preexisting conditions.

95 11. Include coverage for annual pap smears, *including coverage, on and after July 1, 1999, for*  
96 *annual testing performed by any FDA-approved gynecologic cytology screening technologies.*

97 12. Include coverage providing a minimum stay in the hospital of not less than forty-eight hours for  
98 a patient following a radical or modified radical mastectomy and twenty-four hours of inpatient care  
99 following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of breast  
100 cancer. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage  
101 where the attending physician in consultation with the patient determines that a shorter period of  
102 hospital stay is appropriate.

103 13. Include coverage (i) to persons age fifty and over and (ii) to persons age forty and over who are  
104 at high risk for prostate cancer, according to the most recent published guidelines of the American  
105 Cancer Society, for one PSA test in a twelve-month period and digital rectal examinations, all in  
106 accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing"  
107 means the analysis of a blood sample to determine the level of prostate specific antigen.

108 C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from  
109 such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be  
110 deposited in the employee health insurance fund, from which payments for claims, premiums, cost  
111 containment programs and administrative expenses shall be withdrawn from time to time. The funds of  
112 the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from  
113 all other funds of the Commonwealth, and shall be invested and administered solely in the interests of  
114 the employees and beneficiaries thereof. Neither the General Assembly nor any public officer, employee,  
115 or agency shall use or authorize the use of such trust funds for any purpose other than as provided in  
116 law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight  
117 of the health insurance fund.

118 D. For the purposes of this section:

119 "Peer-reviewed medical literature" means a scientific study published only after having been critically  
120 reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal  
121 that has been determined by the International Committee of Medical Journal Editors to have met the

Uniform Requirements for Manuscripts submitted to biomedical journals. Peer-reviewed medical literature does not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier.

"Standard reference compendia" means the American Medical Association Drug Evaluations, the American Hospital Formulary Service Drug Information, or the United States Pharmacopoeia Dispensing Information.

"State employee" means state employee as defined in § 51.1-124.3, employee as defined in § 51.1-201, the Governor, Lieutenant Governor and Attorney General, judge as defined in § 51.1-301 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth, interns and residents employed by the School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of the Medical College of Virginia Hospitals Authority as provided in § 23-50.16:24.

E. Provisions shall be made for retired employees to obtain coverage under the above plan. The Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

F. Any self-insured group health insurance plan established by the Department of Personnel and Training which utilizes a network of preferred providers shall not exclude any physician solely on the basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan criteria established by the Department.

§ 38.2-3418.1:2. Coverage for pap smears.

A. Notwithstanding the provisions § 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 shall provide coverage under such policy, contract or plan delivered, issued for delivery or renewed in this Commonwealth on and after July 1, 1996, for annual pap smears, *including coverage, on and after July 1, 1999, for annual testing performed by any FDA-approved gynecologic cytology screening technologies.*

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