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## HOUSE BILL NO. 2732

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Corporations, Insurance and Banking  
on January 29, 1999)

(Patron Prior to Substitute—Delegate Tate)

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 a section numbered 38.2-3407.11:1, relating to access to specialists.

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 a section numbered 38.2-3407.11:1 as follows:

§ 38.2-3407.11.1. Access to specialists; standing referrals.

A. Each (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, and (iii) health maintenance organization providing a health care plan for health care services shall permit any individual covered thereunder direct access, as provided in subsection B, to the health care services of a participating specialist (i) authorized to provide services under such policy, contract or plan and (ii) selected by such individual.

B. An insurer, corporation, or health maintenance organization, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition may receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care related to the initial specialty care referral. If such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to a specialist. For the purposes of this section, "special condition" means a condition or disease that is (i) life-threatening, degenerative, or disabling and (ii) requires specialized medical care over a prolonged period of time.

C. Within the treatment period authorized by the referral, such specialist shall be permitted to treat the individual without a further referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize.

D. An insurer, corporation, or health maintenance organization in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition that requires ongoing care from a specialist may receive a standing referral to such specialist for the treatment of the special condition. If the plan or issuer, or if the primary care provider in consultation with the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to a specialist.

E. Nothing contained herein shall prohibit an insurer, corporation, or health maintenance organization from requiring a participating specialist to provide written notification to the covered individual's primary care physician of any visit to such specialist. Such notification may include a description of the health care services rendered at the time of the visit.

F. Each insurer, corporation or health maintenance organization subject to the provisions of this section shall inform subscribers of the provisions of this section. Such notice shall be provided in writing.

G. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, renewed, or extended or at any time when any term of any such policy, contract, or plan is changed or any premium adjustment is made. The provisions of this section shall not apply to short-term travel or accident-only policies, to short-term nonrenewable policies of not more than six months' duration, or policies or contracts issued to persons eligible under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

§ 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, 38.2-305, 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, 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,

60 38.2-1340, 38.2-1400 through 38.2-1444, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401,  
61 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,~~  
62 ~~38.2-3407.11,~~ through 38.2-3407.12, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3430.1 through  
63 38.2-3437, 38.2-3501, 38.2-3502, 38.2-3514.1, 38.2-3514.2, 38.2-3516 through 38.2-3520 as they apply  
64 to Medicare supplement policies, 38.2-3522.1 through 38.2-3523.4, §§ 38.2-3525, 38.2-3540.1,  
65 38.2-3541, 38.2-3542, 38.2-3543.2, 38.2-3600 through 38.2-3607, Chapter 53 (§ 38.2-5300 et seq.), and  
66 Chapter 58 (§ 38.2-5800 et seq.) of this title shall apply to the operation of a plan.

67 § 38.2-4319. Statutory construction and relationship to other laws.

68 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this  
69 chapter, §§ 38.2-100, 38.2-200, 38.2-203, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225,  
70 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  
71 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.) of this title, 38.2-1057,  
72 38.2-1306.2 through 38.2-1309, Articles 4 (§ 38.2-1317 et seq.) and 5 (§ 38.2-1322 et seq.) of Chapter  
73 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800 through  
74 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,  
75 ~~38.2-3407.10,~~ ~~38.2-3407.11,~~ through 38.2-3407.12, 38.2-3411.2, 38.2-3414.1, 38.2-3418.1 through  
76 38.2-3418.7, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, 38.2-3514.1, 38.2-3514.2,  
77 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3542, 38.2-3543.2, Chapter 53 (§ 38.2-5300 et seq.)  
78 and Chapter 58 (§ 38.2-5800 et seq.) of this title shall be applicable to any health maintenance  
79 organization granted a license under this chapter. This chapter shall not apply to an insurer or health  
80 services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200  
81 et seq.) of this title except with respect to the activities of its health maintenance organization.

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

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

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