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SENATE BILL NO. 430

Offered January 26, 1998

A *BILL to amend and reenact § 38.2-3412.1 of the Code of Virginia, relating to accident and sickness insurance; mental health coverage.*

Patron—Houck

Referred to the Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 38.2-3412.1 of the Code of Virginia is amended and reenacted as follows:**

§ 38.2-3412.1. Coverage for mental health and substance abuse services.

A. As used in this section:

"Adult" means any person who is nineteen years of age or older.

"Alcohol or drug rehabilitation facility" means a facility in which a state-approved program for the treatment of alcoholism or drug addiction is provided. The facility shall be either (i) licensed by the State Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or by the State Mental Health, Mental Retardation and Substance Abuse Services Board pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 or (ii) a state agency or institution.

"Child or adolescent" means any person under the age of nineteen years.

"Inpatient treatment" means mental health or substance abuse services delivered on a twenty-four-hour per day basis in a hospital, alcohol or drug rehabilitation facility, an intermediate care facility or an inpatient unit of a mental health treatment center.

"Intermediate care facility" means a licensed, residential public or private facility that is not a hospital and that is operated primarily for the purpose of providing a continuous, structured twenty-four-hour per day, state-approved program of inpatient substance abuse services.

"Medication management visit" means a visit no more than twenty minutes in length with a licensed physician or other licensed health care provider with prescriptive authority for the sole purpose of monitoring and adjusting medications prescribed for mental health or substance abuse treatment.

"Mental disorder" means all medically recognized mental illnesses, as defined by the *Diagnostic and Statistical Manual, Fourth Edition (DSM-IV)*, as updated from time to time.

"Mental health services" means treatment for mental, emotional or nervous disorders.

"Mental health treatment center" means a treatment facility organized to provide care and treatment for mental illness through multiple modalities or techniques pursuant to a written plan approved and monitored by a physician, clinical psychologist, or a psychologist licensed to practice in this Commonwealth. The facility shall be (i) licensed by the Commonwealth, (ii) funded or eligible for funding under federal or state law, or (iii) affiliated with a hospital under a contractual agreement with an established system for patient referral.

"Outpatient treatment" means mental health or substance abuse treatment services rendered to a person as an individual or part of a group while not confined as an inpatient. Such treatment shall not include services delivered through a partial hospitalization or intensive outpatient program as defined herein.

"Partial hospitalization" means a licensed or approved day or evening treatment program that includes the major diagnostic, medical, psychiatric and psychosocial rehabilitation treatment modalities designed for patients with mental, emotional, or nervous disorders, and alcohol or other drug dependence who require coordinated, intensive, comprehensive and multi-disciplinary treatment. Such a program shall provide treatment over a period of six or more continuous hours per day to individuals or groups of individuals who are not admitted as inpatients. Such term shall also include intensive outpatient programs for the treatment of alcohol or other drug dependence which provide treatment over a period of three or more continuous hours per day to individuals or groups of individuals who are not admitted as inpatients.

"Substance abuse services" means treatment for alcohol or other drug dependence.

"Treatment" means services including diagnostic evaluation, medical, psychiatric and psychological care, and psychotherapy for mental, emotional or nervous disorders or alcohol or other drug dependence rendered by a hospital, alcohol or drug rehabilitation facility, intermediate care facility, mental health treatment center, a physician, psychologist, clinical psychologist, licensed clinical social worker, licensed professional counselor, licensed substance abuse treatment practitioner, marriage and family therapist or clinical nurse specialist who renders mental health services. Treatment for physiological or psychological dependence on alcohol or other drugs shall also include the services of counseling and rehabilitation as

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60 well as services rendered by a state certified alcoholism, drug, or substance abuse counselor employed
61 by a facility or program licensed to provide such treatment *or by a licensed substance abuse treatment*
62 *professional.*

63 B. Each individual and group accident and sickness insurance policy or individual and group
64 subscription contract providing coverage on an expense-incurred basis for a family member of the
65 insured or the subscriber shall provide coverage for inpatient and partial hospitalization mental health
66 and substance abuse services as follows:

67 1. Treatment for an adult as an inpatient at a hospital, inpatient unit of a mental health treatment
68 center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period of
69 twenty days per policy or contract year.

70 2. Treatment for a child or adolescent as an inpatient at a hospital, inpatient unit of a mental health
71 treatment center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period
72 of twenty-five days per policy or contract year.

73 3. Up to ten days of the inpatient benefit set forth in subdivisions 1 and 2 of this subsection may be
74 converted when medically necessary at the option of the person or the parent, as defined in § 16.1-336,
75 of a child or adolescent receiving such treatment to a partial hospitalization benefit applying a formula
76 which shall be no less favorable than an exchange of 1.5 days of partial hospitalization coverage for
77 each inpatient day of coverage. An insurance policy or subscription contract described herein which
78 provides inpatient benefits in excess of twenty days per policy or contract year for adults or twenty-five
79 days per policy or contract year for a child or adolescent may provide for the conversion of such excess
80 days on the terms set forth in this subdivision.

81 4. The limits of the benefits set forth in this subsection shall not be more restrictive than for any
82 other illness, except that the benefits may be limited as set out in this subsection.

83 5. This subsection shall not apply to short-term travel, accident only, limited or specified disease
84 policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage
85 under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under
86 state or federal governmental plans.

87 C. Each individual and group accident and sickness insurance policy or individual and group
88 subscription contract providing coverage on an expense-incurred basis for a family member of the
89 insured or the subscriber shall also provide coverage for outpatient mental health and substance abuse
90 services as follows:

91 1. A minimum of twenty visits for outpatient treatment of an adult, child or adolescent shall be
92 provided in each policy or contract year.

93 2. The limits of the benefits set forth in this subsection shall be no more restrictive than the limits of
94 benefits applicable to physical illness; however, the coinsurance factor applicable to any outpatient visit
95 beyond the first five of such visits covered in any policy or contract year shall be at least fifty percent.

96 3. For the purpose of this section, medication management visits shall be covered in the same
97 manner as a medication management visit for the treatment of physical illness and shall not be counted
98 as an outpatient treatment visit in the calculation of the benefit set forth herein.

99 4. For the purpose of this subsection, if all covered expenses for a visit for outpatient mental health
100 or substance abuse treatment apply toward any deductible required by a policy or contract, such visit
101 shall not count toward the outpatient visit benefit maximum set forth in the policy or contract.

102 5. This subsection shall not apply to short-term travel, accident only, or limited or specified disease
103 policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage
104 under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under
105 state or federal governmental plans.

106 D. The requirements of this section shall apply to all insurance policies and subscription contracts
107 delivered, issued for delivery, reissued, or extended, or at any time when any term of the policy or
108 contract is changed or any premium adjustment made.

109 B. *Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or*
110 *group accident and sickness insurance policies providing hospital, medical and surgical, or major*
111 *medical coverage on an expense-incurred basis; each corporation providing individual or group*
112 *accident and sickness subscription contracts; and each health maintenance organization providing a*
113 *health care plan for health care services shall provide benefits for inpatient, partial hospitalization,*
114 *medication management and outpatient treatment of a mental disorder that are not less favorable than*
115 *benefits for any other illness, condition or disorder that is covered by such policy or contract; however,*
116 *benefits for treatment of a mental disorder may be different from benefits for other illnesses, conditions*
117 *or disorders if such benefits meet the medical criteria necessary to achieve the same outcomes as are*
118 *achieved by the benefits for any other illness, condition or disorder that is covered by such policy or*
119 *contract.*

120 C. *Coverage for mental disorders shall neither be different nor separate from coverage for any other*
121 *illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational*

limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

D. Nothing shall preclude the undertaking of usual and customary procedures to determine the appropriateness of, and medical necessity for, treatment of mental disorders under this option, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations made for the treatment of any other illness, condition or disorder covered by such policy or contract.

E. This section shall not apply to short-term travel, accident only, limited or specified disease policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

F. The requirements of this section shall apply to all insurance policies, subscription contracts, and health care plans delivered, issued for delivery, reissued, or extended after July 1, 1998, or at any time when term of the policy or contract is changed or any premium adjustment made.