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SENATE BILL NO. 922

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on February 11, 2013)

(Patron Prior to Substitute—Senator Watkins)

A *BILL amend and reenact §§ 32.1-16 and 32.1-137.2 of the Code of Virginia, and §§ 38.2-4214, 38.2-4319, and 38.2-4509 of the Code of Virginia as they are currently effective and as they shall become effective, and to amend the Code of Virginia by adding in Chapter 3 of Title 38.2 sections numbered 38.2-316.1 and 38.2-326, relating to the powers of the State Corporation Commission to perform plan management functions for participation in the federal health benefit exchange established by the Secretary of the U.S. Department of Health and Human Services pursuant to § 1321 of the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18041(c); review and approval of health insurance premium rates.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-16 and 32.1-137.2 of the Code of Virginia, and §§ 38.2-4214, 38.2-4319, and 38.2-4509 of the Code of Virginia as they are currently effective and as they shall become effective, are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 38.2 sections numbered 38.2-316.1 and 38.2-326 as follows:

§ 32.1-16. State Department of Health.

A. There shall be a State Department of Health in the executive department responsible to the Secretary of Health and Human Resources. The Department shall be under the supervision and management of the State Health Commissioner. The Commissioner shall carry out his management and supervisory responsibilities in accordance with the policies, rules and regulations of the Board.

B. *In addition to other duties imposed on the Department pursuant to this title, the Department shall assist in the plan management functions of the federal health benefit exchange established by the Secretary of the U.S. Department of Health and Human Services pursuant to § 1321 of the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18041(c) in the Commonwealth, including providing assistance to the State Corporation Commission in its performance of plan management functions as set forth in § 38.2-326. The Department shall be compensated for expenses incurred in providing such services.*

§ 32.1-137.2. Certification of quality assurance; application; issuance; denial; renewal.

A. Every managed care health insurance plan licensee shall request a certificate of quality assurance with reference to its managed care health insurance plans simultaneously with filing an initial application to the Bureau of Insurance for licensure. If already licensed by the Bureau of Insurance, every managed care health insurance plan licensee may file an application for quality assurance certification with the Department of Health by December 1, 1998, and shall file an application for quality assurance certification with the Department of Health by December 1, 1999, in order to obtain its certificate of quality assurance by July 1, 2000.

On or before July 1, 2000, the State Health Commissioner shall certify to the Bureau of Insurance that a managed care health insurance plan licensee has been issued a certificate of quality assurance by providing the Bureau of Insurance with a copy of each certificate at the time of issuance.

Application for a certificate of quality assurance shall be made on a form prescribed by the Board and shall be accompanied by a fee based upon a percentage, not to exceed one-tenth of one percent, of the proportion of direct gross premium income on business done in this Commonwealth attributable to the operation of managed care health insurance plans in the preceding biennium, sufficient to cover reasonable costs for the administration of the quality assurance program. Such fee shall not exceed \$10,000 per licensee. Whenever the account of the program shows expenses for the past biennium to be more than ten percent greater or lesser than the funds collected, the Board shall revise the fees levied by it for certification so that the fees are sufficient, but not excessive, to cover expenses; provided that such fees shall not exceed the limits set forth in this section. *Until July 1, 2014, the Department may utilize such certification funds as are needed in fulfilling its responsibilities pursuant to subsection B of § 32.1-16.*

All applications, including those for renewal, shall require (i) a description of the geographic area to be served, with a map clearly delineating the boundaries of the service area or areas, (ii) a description of the complaint system required under § 32.1-137.6, (iii) a description of the procedures and programs established by the licensee to assure both availability and accessibility of adequate personnel and facilities and to assess the quality of health care services provided, and (iv) a list of the licensee's managed care health insurance plans.

B. Every managed care health insurance plan licensee certified under this article shall renew its

60 certificate of quality assurance with the Commissioner biennially by July 1, subject to payment of the
61 fee.

62 C. The Commissioner shall periodically examine or review each applicant for certificate of quality
63 assurance or for renewal thereof.

64 No certificate of quality assurance may be issued or renewed unless a managed care health insurance
65 plan licensee has filed a completed application and made payment of a fee pursuant to subsection A of
66 this section and the Commissioner is satisfied, based upon his examination, that, to the extent
67 appropriate for the type of managed care health insurance plan under examination, the managed care
68 health insurance plan licensee has in place and complies with: (i) a complaint system for reasonable and
69 adequate procedures for the timely resolution of written complaints pursuant to § 32.1-137.6; (ii) a
70 reasonable and adequate system for assessing the satisfaction of its covered persons; (iii) a system to
71 provide for reasonable and adequate availability of and accessibility to health care services for its
72 covered persons; (iv) reasonable and adequate policies and procedures to encourage the appropriate
73 provision and use of preventive services for its covered persons; (v) reasonable and adequate standards
74 and procedures for credentialing and recredentialing the providers with whom it contracts; (vi)
75 reasonable and adequate procedures to inform its covered persons and providers of the managed care
76 health insurance plan licensee's policies and procedures; (vii) reasonable and adequate systems to assess,
77 measure, and improve the health status of covered persons, including outcome measures, (viii)
78 reasonable and adequate policies and procedures to ensure confidentiality of medical records and patient
79 information to permit effective and confidential patient care and quality review; (ix) reasonable, timely
80 and adequate requirements and standards pursuant to § 32.1-137.9; and (x) such other requirements as
81 the Board may establish by regulation consistent with this article.

82 Upon the issuance or reissuance of a certificate, the Commissioner shall provide a copy of such
83 certificate to the Bureau of Insurance.

84 D. Upon determining to deny a certificate, the Commissioner shall notify such applicant in writing
85 stating the reasons for the denial of a certificate. A copy of such notification of denial shall be provided
86 to the Bureau of Insurance. Appeals from a notification of denial shall be brought by a certificate
87 applicant pursuant to the process set forth in § 32.1-137.5.

88 E. The State Corporation Commission shall give notice to the Commissioner of its intention to issue
89 an order based upon a finding of insolvency, hazardous financial condition, or impairment of net worth
90 or surplus to policyholders or an order suspending or revoking the license of a managed care health
91 insurance plan licensee; and the Commissioner shall notify the Bureau of Insurance when he has
92 reasonable cause to believe that a recommendation for the suspension or revocation of a certificate of
93 quality assurance or the denial or nonrenewal of such a certificate may be made pursuant to this article.
94 Such notifications shall be privileged and confidential and shall not be subject to subpoena.

95 F. No certificate of quality assurance issued pursuant to this article may be transferred or assigned
96 without approval of the Commissioner.

97 **§ 38.2-316.1. Premium rates.**

98 *The Commission shall review and approve accident and sickness insurance premium rates applicable*
99 *to (i) health benefit plans issued in this Commonwealth in the individual and small group markets, as*
100 *those terms are defined in § 38.2-3431, and (ii) health benefit plans providing health insurance*
101 *coverage, as defined in § 38.2-3431, in the individual market to residents of the Commonwealth through*
102 *a group trust, association, purchasing cooperative, or other group that is not an employer plan. The*
103 *Commission shall promulgate regulations to establish standards applicable to such review and approval.*

104 **§ 38.2-326. Plan management functions.**

105 *A. The Commission, with the assistance of the Virginia Department of Health, shall perform plan*
106 *management functions required to certify health benefit plans and stand-alone dental plans for*
107 *participation in the federal health benefit exchange established by the Secretary of the U.S. Department*
108 *of Health and Human Services pursuant to § 1321 of the Patient Protection and Affordable Care Act*
109 *codified as 42 U.S.C. § 18041(c) in the Commonwealth, provided that: (i) full funding is available; (ii)*
110 *the technology infrastructure, including integration with federal, state, and other necessary entities, is*
111 *made available to the Commission by or through the U.S. Department of Health and Human Services or*
112 *the Virginia Secretary of Health and Human Resources in order for it to carry out the plan management*
113 *functions authorized in this section; (iii) there are no other impediments that effectively prevent the*
114 *Commission from performing any required plan management functions; and (iv) the performance of such*
115 *plan management functions is not deemed to establish a health benefit exchange pursuant to § 1311 of*
116 *the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18031. For purposes of this*
117 *section, "plan management functions" means analyses and reviews necessary to support the certification,*
118 *decertification, and recertification of qualified health plans and stand-alone dental plans for the federal*
119 *health benefit exchange established by the Secretary of the U.S. Department of Health and Human*
120 *Services pursuant to § 1321 of the Patient Protection and Affordable Care Act codified as 42 U.S.C.*
121 *§ 18041(c), and the collection of data necessary to perform the above functions.*

B. The Commission may contract with and enter into memoranda of understanding to carry out its plan management functions with the U.S. Department of Health and Human Services or any other state or federal agency, provided that entering into such contracts or memoranda of understanding are not deemed to establish a health benefit exchange pursuant to § 1311 of the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18031.

C. The Commission's obligation to perform plan management functions described in subsection A is contingent upon receiving federal funding sufficient to pay the operating expenses necessary to carry out the plan management functions. The Commission shall seek full reimbursement from the U.S. Department of Health and Human Services for such expenses.

D. The Commission shall not use any special fund revenues dedicated to its other functions and duties, including, but not limited to, revenues from utility consumer taxes or fees from licensees or registrants regulated by the Commission or fees paid to the Clerk's Office, to fund the plan management functions.

E. Technology resources provided by the Commission in carrying out the plan management functions shall be limited to existing Commission technology support functions such as desktop support, network administration support, web services support, or other similar support functions.

F. The Commission shall make available to the public on its website a written report on the implementation and performance of its plan management functions during the preceding fiscal year, including, at a minimum, the manner in which all funds utilized for its plan management functions were expended.

§ 38.2-4214. (Effective until July 1, 2014) 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, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-326, 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, 38.2-1315.1, 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, 38.2-3406.1, 38.2-3406.2, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.18, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3430.1 through 38.2-3446, 38.2-3501, 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541 through 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), §§ 38.2-3600 through 38.2-3607, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) of this title shall apply to the operation of a plan.

§ 38.2-4214. (Effective July 1, 2014) 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, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-326, 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, 38.2-1315.1, 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, 38.2-3406.1, 38.2-3406.2, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.18, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3501, 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541, 38.2-3541.1, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, §§ 38.2-3600 through 38.2-3607, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 of this title shall apply to the operation of a plan.

§ 38.2-4319. (Effective until July 1, 2014) 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, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-326, 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.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through

183 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.18, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1:01,
184 38.2-3414.1, 38.2-3418.1 through 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through 38.2-3446, 38.2-3500,
185 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1
186 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.1, 38.2-3541.2, 38.2-3542,
187 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), Chapter
188 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be
189 applicable to any health maintenance organization granted a license under this chapter. This chapter shall
190 not apply to an insurer or health services plan licensed and regulated in conformance with the insurance
191 laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance
192 organization.

193 B. For plans administered by the Department of Medical Assistance Services that provide benefits
194 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
195 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
196 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229,
197 38.2-232, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through
198 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1,
199 Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et
200 seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et
201 seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6 and
202 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of
203 § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14,
204 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500,
205 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1
206 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter
207 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be
208 applicable to any health maintenance organization granted a license under this chapter. This chapter shall
209 not apply to an insurer or health services plan licensed and regulated in conformance with the insurance
210 laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance
211 organization.

212 C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives
213 shall not be construed to violate any provisions of law relating to solicitation or advertising by health
214 professionals.

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

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

222 F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and
223 B shall be construed to mean and include "health maintenance organizations" unless the section cited
224 clearly applies to health maintenance organizations without such construction.

225 **§ 38.2-4319. (Effective July 1, 2014) Statutory construction and relationship to other laws.**

226 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this
227 chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218
228 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-326, 38.2-400,
229 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9
230 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2
231 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), and 5 (§ 38.2-1322
232 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14,
233 §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through
234 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.18, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1:01,
235 38.2-3414.1, 38.2-3418.1 through 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500,
236 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1
237 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.1, 38.2-3541.2, 38.2-3542,
238 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55
239 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 shall be applicable to any health
240 maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer
241 or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42
242 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

243 B. For plans administered by the Department of Medical Assistance Services that provide benefits
244 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title

except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 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.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 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.) except with respect to the activities of its health maintenance organization.

C. 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.

D. 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.

E. 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.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B shall be construed to mean and include "health maintenance organizations" unless the section cited clearly applies to health maintenance organizations without such construction.

§ 38.2-4509. (Effective until July 1, 2014) Application of certain laws.

A. No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229, 38.2-316, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, 38.2-900 through 38.2-904, 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, 38.2-1315.1, Article 4 (§ 38.2-1317 et seq.) of Chapter 13, §§ 38.2-1400 through 38.2-1444, 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3407.10, 38.2-3407.13, 38.2-3407.14, 38.2-3407.15, 38.2-3407.17, 38.2-3415, 38.2-3541, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, §§ 38.2-3600 through 38.2-3603, Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) of this title shall apply to the operation of a plan.

B. The provisions of subsection A of § 38.2-322 shall apply to an optometric services plan. The provisions of subsection C of § 38.2-322 shall apply to a dental services plan.

C. The provisions of Article 1.2 (§ 32.1-137.7 et seq.) of Chapter 5 of Title 32.1 shall not apply to either an optometric or dental services plan.

§ 38.2-4509. (Effective July 1, 2014) Application of certain laws.

A. No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229, 38.2-316, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, 38.2-900 through 38.2-904, 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, 38.2-1315.1, Article 4 (§ 38.2-1317 et seq.) of Chapter 13, §§ 38.2-1400 through 38.2-1444, 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3407.10, 38.2-3407.13, 38.2-3407.14, 38.2-3407.15, 38.2-3407.17, 38.2-3415, 38.2-3541, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, §§ 38.2-3600 through 38.2-3603, Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 of this title shall apply to the operation of a plan.

B. The provisions of subsection A of § 38.2-322 shall apply to an optometric services plan. The provisions of subsection C of § 38.2-322 shall apply to a dental services plan.

C. The provisions of Article 1.2 (§ 32.1-137.7 et seq.) of Chapter 5 of Title 32.1 shall not apply to either an optometric or dental services plan.

2. That no agent, employee, officer, or agency of the Commonwealth, including but not limited to

306 the State Corporation Commission and the Virginia Department of Health, is authorized to take
307 any action to establish, or that could be deemed to establish, a health benefit exchange pursuant to
308 § 1311 of the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18031.