

14103243D

**SENATE BILL NO. 477**

Offered January 8, 2014

Prefiled January 8, 2014

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 in Article 6 of Chapter 34 of Title 38.2 a section numbered 38.2-3454.1, relating to health benefit plans; exception for certain plans previously approved; waiver for navigator program.*

Patron—Newman

Referred to Committee on Commerce and Labor

**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 in Article 6 of Chapter 34 of Title 38.2 a section numbered 38.2-3454.1 as follows:**

**§ 38.2-3454.1. Exception for health benefit plans previously authorized.**

*Notwithstanding any other provision of this title, a health carrier is authorized to continue offering, issuing, issuing for delivery, delivering, selling, or renewing any health benefit plan that provides the same coverage, limits, conditions, restrictions, and benefits as a health benefit plan that the health carrier had obtained approval from the Commission, prior to July 1, 2013, to offer, issue, issue for delivery, deliver, sell, or renew in the Commonwealth. The Commission shall not prohibit, interfere with, or penalize a health carrier in connection with, the offering, issuing, issuing for delivery, delivering, selling, or renewing of such a health benefit plan on grounds that the health benefit plan does not comply with requirements of PPACA or any other provision of this article.*

**§ 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, 38.2-209 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 ~~38.2-3454~~ 38.2-3454.1, 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.

**§ 38.2-4319. 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, 38.2-136, 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 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.18, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1:01, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through ~~38.2-3454~~ 38.2-3454.1, 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, 38.2-3541.1, 38.2-3541.2, 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.), Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) 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

INTRODUCED

SB477

59 regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with  
60 respect to the activities of its health maintenance organization.

61 B. For plans administered by the Department of Medical Assistance Services that provide benefits  
62 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title  
63 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,  
64 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,  
65 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  
66 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,  
67 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  
68 seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et  
69 seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6,  
70 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  
71 § 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,  
72 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,  
73 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1  
74 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  
75 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be  
76 applicable to any health maintenance organization granted a license under this chapter. This chapter shall  
77 not apply to an insurer or health services plan licensed and regulated in conformance with the insurance  
78 laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance  
79 organization.

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

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

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

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

93 **2. That the Secretary of Health and Human Resources shall obtain from the U.S. Secretary of**  
94 **Health and Human Services a waiver from the requirements of 42 U.S.C. § 18031(i) and other**  
95 **applicable provisions of the Patient Protection and Affordable Care Act (P.L. 111-148), as**  
96 **amended by the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), and as it**  
97 **may be further amended, and enter into appropriate agreements with the appropriate federal**  
98 **agencies, as may be necessary to (i) provide that all federal funds allocated for navigators in the**  
99 **Commonwealth be paid into the general fund of the state treasury and (ii) grant to the Secretary**  
100 **of Health and Human Resources the authority to (a) establish criteria for the selection of**  
101 **navigators for the Commonwealth; (b) select navigators for the Commonwealth, which may**  
102 **include agencies of the Commonwealth and political subdivisions; (c) establish criteria for granting**  
103 **awards to entities selected to serve as navigators; and (d) award grants to persons and entities**  
104 **selected to serve as navigators in the Commonwealth, subject to such conditions as may be**  
105 **imposed by the general appropriation act.**