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HOUSE BILL NO. 2049

Offered January 9, 2019

Prefiled January 7, 2019

A *BILL to amend and reenact §§ 32.1-325 and 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3418.18, relating to health insurance and medical assistance services; coverage for expenses incurred in the provision of donated human breast milk.*

Patrons—Carroll Foy, Ayala, Carr, Gooditis, Hope, Keam, Kory, Krizek, Levine, Mullin, Rasoul, Reid, Rodman, Roem and Simon; Senator: Howell

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-325 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 38.2-3418.18 as follows:

§ 32.1-325. Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment 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. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines

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58 or Standards or any official amendment thereto;

59 7. A provision for the payment for family planning services on behalf of women who were
60 Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such
61 family planning services shall begin with delivery and continue for a period of 24 months, if the woman
62 continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the
63 purposes of this section, family planning services shall not cover payment for abortion services and no
64 funds shall be used to perform, assist, encourage or make direct referrals for abortions;

65 8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow
66 transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast
67 cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a
68 performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant.
69 Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

70 9. A provision identifying entities approved by the Board to receive applications and to determine
71 eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate
72 contact information, including the best available address and telephone number, from each applicant for
73 medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant
74 for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et
75 seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance
76 directives and how the applicant may make an advance directive;

77 10. A provision for breast reconstructive surgery following the medically necessary removal of a
78 breast for any medical reason. Breast reductions shall be covered, if prior authorization has been
79 obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

80 11. A provision for payment of medical assistance for annual pap smears;

81 12. A provision for payment of medical assistance services for prostheses following the medically
82 necessary complete or partial removal of a breast for any medical reason;

83 13. A provision for payment of medical assistance which provides for payment for 48 hours of
84 inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of
85 inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for
86 treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring
87 the provision of inpatient coverage where the attending physician in consultation with the patient
88 determines that a shorter period of hospital stay is appropriate;

89 14. A requirement that certificates of medical necessity for durable medical equipment and any
90 supporting verifiable documentation shall be signed, dated, and returned by the physician, physician
91 assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60
92 days from the time the ordered durable medical equipment and supplies are first furnished by the
93 durable medical equipment provider;

94 15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons
95 age 40 and over who are at high risk for prostate cancer, according to the most recent published
96 guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal
97 examinations, all in accordance with American Cancer Society guidelines. For the purpose of this
98 subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate
99 specific antigen;

100 16. A provision for payment of medical assistance for low-dose screening mammograms for
101 determining the presence of occult breast cancer. Such coverage shall make available one screening
102 mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through
103 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an
104 X-ray examination of the breast using equipment dedicated specifically for mammography, including but
105 not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average
106 radiation exposure of less than one rad mid-breast, two views of each breast;

107 17. A provision, when in compliance with federal law and regulation and approved by the Centers
108 for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to
109 Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid
110 program and may be provided by school divisions;

111 18. A provision for payment of medical assistance services for liver, heart and lung transplantation
112 procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or
113 surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and
114 application of the procedure in treatment of the specific condition have been clearly demonstrated to be
115 medically effective and not experimental or investigational; (iii) prior authorization by the Department of
116 Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific
117 transplant center where the surgery is proposed to be performed have been used by the transplant team
118 or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy
119 has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is

120 not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and
121 restore a range of physical and social functioning in the activities of daily living;

122 19. A provision for payment of medical assistance for colorectal cancer screening, specifically
123 screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in
124 appropriate circumstances radiologic imaging, in accordance with the most recently published
125 recommendations established by the American College of Gastroenterology, in consultation with the
126 American Cancer Society, for the ages, family histories, and frequencies referenced in such
127 recommendations;

128 20. A provision for payment of medical assistance for custom ocular prostheses;

129 21. A provision for payment for medical assistance for infant hearing screenings and all necessary
130 audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the
131 United States Food and Drug Administration, and as recommended by the national Joint Committee on
132 Infant Hearing in its most current position statement addressing early hearing detection and intervention
133 programs. Such provision shall include payment for medical assistance for follow-up audiological
134 examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and
135 performed by a licensed audiologist to confirm the existence or absence of hearing loss;

136 22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer
137 Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer
138 when such women (i) have been screened for breast or cervical cancer under the Centers for Disease
139 Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under
140 Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including
141 treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under
142 creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise
143 eligible for medical assistance services under any mandatory categorically needy eligibility group; and
144 (v) have not attained age 65. This provision shall include an expedited eligibility determination for such
145 women;

146 23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and
147 services delivery, of medical assistance services provided to medically indigent children pursuant to this
148 chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the
149 FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for
150 both programs;

151 24. A provision, when authorized by and in compliance with federal law, to establish a public-private
152 long-term care partnership program between the Commonwealth of Virginia and private insurance
153 companies that shall be established through the filing of an amendment to the state plan for medical
154 assistance services by the Department of Medical Assistance Services. The purpose of the program shall
155 be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for
156 such services through encouraging the purchase of private long-term care insurance policies that have
157 been designated as qualified state long-term care insurance partnerships and may be used as the first
158 source of benefits for the participant's long-term care. Components of the program, including the
159 treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with
160 federal law and applicable federal guidelines; ~~and~~

161 25. A provision for the payment of medical assistance for otherwise eligible pregnant women during
162 the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health
163 Insurance Program Reauthorization Act of 2009 (P.L. 111-3); *and*

164 26. *A provision for the payment of medical assistance incurred in the provision of pasteurized*
165 *donated human breast milk, which shall include human milk fortifiers if indicated in a medical order*
166 *provided by a licensed medical practitioner, provided that:*

167 *a. The covered person is an infant under the age of six months;*

168 *b. The milk is obtained from a human milk bank that meets quality guidelines established by the*
169 *Department of Health; and*

170 *c. A licensed medical practitioner has issued a written order for the provision of such human breast*
171 *milk for an infant who:*

172 *(1) Is medically or physically unable to receive maternal breast milk or participate in breastfeeding*
173 *or whose mother is medically or physically unable to produce maternal breast milk in sufficient*
174 *quantities or participate in breastfeeding despite optimal lactation support; or*

175 *(2) Meets any of the following conditions:*

176 *(a) A body weight below healthy levels determined by the licensed medical practitioner;*

177 *(b) A congenital or acquired condition that places the infant at a high risk for development of*
178 *necrotizing enterocolitis; or*

179 *(c) A congenital or acquired condition that may benefit from the use of such human breast milk as*
180 *determined by the Department of Health.*

181 B. In preparing the plan, the Board shall:

182 1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided
183 and that the health, safety, security, rights and welfare of patients are ensured.

184 2. Initiate such cost containment or other measures as are set forth in the appropriation act.

185 3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the
186 provisions of this chapter.

187 4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations
188 pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social
189 services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact
190 analysis with local boards of social services prior to submission to the Registrar. The fiscal impact
191 analysis shall include the projected costs/savings to the local boards of social services to implement or
192 comply with such regulation and, where applicable, sources of potential funds to implement or comply
193 with such regulation.

194 5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in
195 accordance with 42 C.F.R. § 488.400 et seq. "Enforcement of Compliance for Long-Term Care Facilities
196 With Deficiencies."

197 6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or
198 other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each
199 recipient of medical assistance services, and shall upon any changes in the required data elements set
200 forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective
201 information as may be required to electronically process a prescription claim.

202 C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for
203 medical assistance or related services, the Board, subject to the approval of the Governor, may adopt,
204 regardless of any other provision of this chapter, such amendments to the state plan for medical
205 assistance services as may be necessary to conform such plan with amendments to the United States
206 Social Security Act or other relevant federal law and their implementing regulations or constructions of
207 these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health
208 and Human Services.

209 In the event conforming amendments to the state plan for medical assistance services are adopted, the
210 Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter
211 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the
212 Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or
213 regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the
214 regulations are necessitated by an emergency situation. Any such amendments that are in conflict with
215 the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular
216 session of the General Assembly unless enacted into law.

217 D. The Director of Medical Assistance Services is authorized to:

218 1. Administer such state plan and receive and expend federal funds therefor in accordance with
219 applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to
220 the performance of the Department's duties and the execution of its powers as provided by law.

221 2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other
222 health care providers where necessary to carry out the provisions of such state plan. Any such agreement
223 or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is
224 reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new
225 agreement or contract. Such provider may also apply to the Director for reconsideration of the
226 agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

227 3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement
228 or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or
229 pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider
230 as required by 42 C.F.R. § 1002.212.

231 4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement
232 or contract, with a provider who is or has been a principal in a professional or other corporation when
233 such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315,
234 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal
235 program pursuant to 42 C.F.R. Part 1002.

236 5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection
237 E of § 32.1-162.13.

238 6. (Expires January 1, 2020) Provide payments or transfers pursuant to § 457 of the Internal Revenue
239 Code to the deferred compensation plan described in § 51.1-602 on behalf of an individual who is a
240 dentist or an oral and maxillofacial surgeon providing services as an independent contractor pursuant to
241 a Medicaid agreement or contract under this section. Notwithstanding the provisions of § 51.1-600, an
242 "employee" for purposes of Chapter 6 (§ 51.1-600 et seq.) of Title 51.1 shall include an independent

243 contractor as described in this subdivision.

244 For the purposes of this subsection, "provider" may refer to an individual or an entity.

245 E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider
 246 pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R.
 247 § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative
 248 Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of
 249 the date of receipt of the notice.

250 The Director may consider aggravating and mitigating factors including the nature and extent of any
 251 adverse impact the agreement or contract denial or termination may have on the medical care provided
 252 to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to
 253 subsection D, the Director may determine the period of exclusion and may consider aggravating and
 254 mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant
 255 to 42 C.F.R. § 1002.215.

256 F. When the services provided for by such plan are services which a marriage and family therapist,
 257 clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed
 258 to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist,
 259 duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or
 260 licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter
 261 shall pay for covered services as provided in the state plan. The Board shall promulgate regulations
 262 which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical
 263 social workers, licensed professional counselors and licensed clinical nurse specialists at rates based
 264 upon reasonable criteria, including the professional credentials required for licensure.

265 G. The Board shall prepare and submit to the Secretary of the United States Department of Health
 266 and Human Services such amendments to the state plan for medical assistance services as may be
 267 permitted by federal law to establish a program of family assistance whereby children over the age of 18
 268 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of
 269 providing medical assistance under the plan to their parents.

270 H. The Department of Medical Assistance Services shall:

271 1. Include in its provider networks and all of its health maintenance organization contracts a
 272 provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have
 273 special needs and who are Medicaid eligible, including individuals who have been victims of child abuse
 274 and neglect, for medically necessary assessment and treatment services, when such services are delivered
 275 by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a
 276 provider with comparable expertise, as determined by the Director.

277 2. Amend the Medallion II waiver and its implementing regulations to develop and implement an
 278 exception, with procedural requirements, to mandatory enrollment for certain children between birth and
 279 age three certified by the Department of Behavioral Health and Developmental Services as eligible for
 280 services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

281 3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to
 282 contractors and enrolled providers for the provision of health care services under Medicaid and the
 283 Family Access to Medical Insurance Security Plan established under § 32.1-351.

284 I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible
 285 recipients with special needs. The Board shall promulgate regulations regarding these special needs
 286 patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special
 287 needs as defined by the Board.

288 J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public
 289 Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by
 290 subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law
 291 and regulation.

292 **§ 38.2-3418.18. Coverage for expenses incurred in the provision of donated human breast milk.**

293 A. *Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or*
 294 *group accident and sickness insurance policies providing hospital, medical and surgical, or major*
 295 *medical coverage on an expense-incurred basis; each corporation providing individual or group*
 296 *accident and sickness subscription contracts; and each health maintenance organization providing a*
 297 *health care plan for health care services shall provide coverage for expenses incurred in the provision*
 298 *of pasteurized donated human breast milk, which shall include human milk fortifiers if indicated in a*
 299 *medical order provided by a licensed medical practitioner, provided that:*

300 1. *The covered person is an infant under the age of six months;*

301 2. *The milk is obtained from a human milk bank that meets quality guidelines established by the*
 302 *Department of Health; and*

303 3. *A licensed medical practitioner has issued a written order for the provision of such human breast*

304 *milk for an infant who:*

305 *a. Is medically or physically unable to receive maternal breast milk or participate in breastfeeding or*
 306 *whose mother is medically or physically unable to produce maternal breast milk in sufficient quantities*
 307 *or participate in breastfeeding despite optimal lactation support; or*

308 *b. Meets any of the following conditions:*

309 *(1) A body weight below healthy levels determined by the licensed medical practitioner;*

310 *(2) A congenital or acquired condition that places the infant at a high risk for development of*
 311 *necrotizing enterocolitis; or*

312 *(3) A congenital or acquired condition that may benefit from the use of such human breast milk as*
 313 *determined by the Department of Health.*

314 *B. If there is no supply of donated human breast milk that meets the requirements of subdivision A 2,*
 315 *the insurer, corporation, or health maintenance organization shall not be required to provide coverage*
 316 *of expenses pursuant to this section.*

317 *C. Nothing in this section shall preclude the insurer, corporation, or health maintenance*
 318 *organization from performing utilization review, including periodic review of the medical necessity of a*
 319 *particular service.*

320 *D. No insurer, corporation, or health maintenance organization shall impose upon any person*
 321 *receiving benefits pursuant to this section any copayment, fee, or condition that is not equally imposed*
 322 *upon all individuals in the same benefit category.*

323 *E. The provisions of this section shall apply to any policy, contract, or plan delivered, issued for*
 324 *delivery, or renewed in the Commonwealth on and after January 1, 2020.*

325 *F. The provisions of this section shall not apply to short-term travel, accident-only, or limited or*
 326 *specified disease policies; contracts designed for issuance to persons eligible for coverage under Title*
 327 *XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or*
 328 *federal governmental plans; or short-term nonrenewable policies of not more than six months' duration.*

329 **§ 38.2-4319. Statutory construction and relationship to other laws.**

330 *A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this*
 331 *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*
 332 *through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326,*
 333 *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*
 334 *(§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2*
 335 *(§ 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.), 5*
 336 *(§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13,*
 337 *Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14,*
 338 *Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836,*
 339 *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*
 340 *38.2-3407.19, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1*
 341 *through ~~38.2-3418.17~~ 38.2-3418.18, 38.2-3419.1, 38.2-3430.1 through 38.2-3454, 38.2-3500, subdivision*
 342 *13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through*
 343 *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, Article 5*
 344 *(§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), Chapter 52 (§ 38.2-5200 et*
 345 *seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any*
 346 *health maintenance organization granted a license under this chapter. This chapter shall not apply to an*
 347 *insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter*
 348 *42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.*

349 *B. For plans administered by the Department of Medical Assistance Services that provide benefits*
 350 *pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title*
 351 *except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,*
 352 *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,*
 353 *38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600*
 354 *through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057,*
 355 *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*
 356 *(§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et*
 357 *seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et*
 358 *seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6,*
 359 *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*
 360 *§ 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,*
 361 *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,*
 362 *subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1*
 363 *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*
 364 *52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be*
 365 *applicable to any health maintenance organization granted a license under this chapter. This chapter shall*

366 not apply to an insurer or health services plan licensed and regulated in conformance with the insurance
367 laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance
368 organization.

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

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

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

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