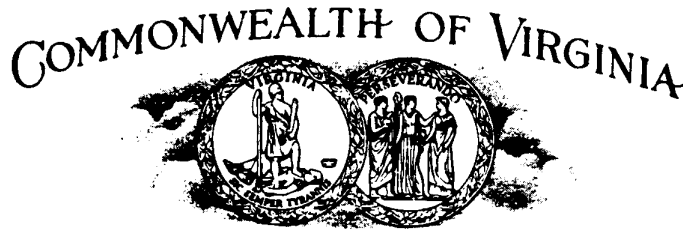


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STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

July 5, 1994

ADMINISTRATIVE LETTER 1994-5

**TO: All Insurers, Health Services Plans, Health Maintenance
Organizations and Other Interested Parties**

RE: Legislation enacted by the 1994 Virginia General Assembly

We have attached for your reference summaries of certain statutes enacted or amended and re-enacted during the 1994 session of the Virginia General Assembly. **The effective date of these statutes is July 1, 1994, except as otherwise indicated in this letter.** Each organization to which this letter is being sent should review the attachment carefully and see that notice of these laws is directed to the proper persons, **including appointed representatives**, to ensure that appropriate action is taken to effect compliance with these new legal requirements. Please note that this document is a **summary** of legislation. It is neither a legal review and interpretation nor a full description of the legislative amendments made to insurance-related laws during the 1994 session. Each organization is responsible for legal review of the statutes pertinent to its operations.

Please note that five bills included in this year's summary reference the addition of § 38.2-3407.2 to the Code of Virginia, two bills reference the addition of § 38.2-3407.3 and two bills reference the addition of § 38.2-2230. The Virginia Code Commission will determine the correct citation for each of the new code sections, and the results will be evident when the official code compilation is published by the Michie Company later this summer. Until then, we properly refer to each of these new sections as §§ 38.2-3407.2, 38.2-3407.3 or 38.-2230 as they appear in House Bills 840 and 1057, Senate Bills 403, 480, and 552 and House Bills 245 and 883, respectively.

Sincerely yours,

Steven T. Foster
Commissioner of Insurance

House Bill 504

Premium Finance Charges

Amends § 38.2-4705 by allowing a premium finance company to collect an additional premium charge, not to exceed \$10.00, if additional premiums are added to an existing premium finance agreement at the insured's request. The new law makes it clear that only one additional premium charge may be applied during the term of a premium finance agreement. Section 38.2-4706 is amended to increase the bad check charge from \$15.00 to \$20.00.

House Bill 883

Arbitration

Adds § 38.2-2230 requiring insurers to arbitrate and settle all disputed automobile physical damage claims in accordance with the Nationwide Intercompany Arbitration Agreement. The bill allows both parties to use by mutual agreement another arbitration forum on a case-by-case basis. The bill further requires all automobile liability and physical damage insurers doing business in the Commonwealth to be members of the Nationwide Intercompany Arbitration Agreement.

House Bill 888

Prohibition Against Surcharging Law Enforcement Officers

Amends § 38.2-1905 by prohibiting insurers from surcharging a law enforcement officer's personal automobile policy for accidents occurring in the course of the insured's employment as long as the insured was driving a vehicle provided by the law enforcement agency and was engaged in a law enforcement activity at the time of the accident. Reference is made to § 9-169 of the Code of Virginia, which defines the term "law enforcement officer."

House Bill 1368

Credit Involuntary Unemployment Insurance

Amends § 38.2-233 (credit involuntary unemployment insurance), which was enacted last year. The amended language permits the disclosure requirements of § 38.2-233 and the disclosure requirements of § 38.2-3735 (credit life and credit accident and sickness insurance) to be disclosed together in a form approved by the Commission. The bill also allows application and enrollment forms for credit

Insurers subject to the reporting requirements of § 38.2-3419.1 and Regulation No. 38, Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers, should take note that this new mandated option will be included in the reporting requirements commencing with calendar year 1995.

House Bill 572

Credit Life and Credit Accident and Sickness Insurance

Amends § 38.2-3737 to provide that a contract of insurance may be made or effectuated in connection with a creditor regulated by Chapter 4.01 of Title 6.1 (The Virginia Credit Union Act of the Banking and Finance Title) or 12 U.S.C. § 1751 et seq., and a debtor (i) of lawful age, (ii) competent to contract, and (iii) a member of the creditor without complying with the requirement in subsection A that the debtor applies for the insurance in writing on a form approved by the Commission. The following conditions must be met: 1) the credit transaction and solicitation for such insurance is effected by mail, telephone or other electronic means; 2) the purchase of the credit insurance is not required by the creditor and is not a factor in granting the credit; 3) within three business days after the credit transaction, the creditor or insurer sends the debtor an application or enrollment form approved by the Commission. Attached or included must be a notice that unless the debtor signs and mails the completed application or enrollment form to the creditor within 45 days after the credit transaction, the coverage will be void from the beginning; and 4) in the event the debtor does not transmit the completed and signed application or enrollment request to the creditor within the time specified in 3) above, the full premium charged for the insurance will be returned to or credited to the account of the debtor, and written notice will be sent to the debtor within 15 days of the date the policy or certificate is canceled.

House Bill 840

Pharmacy and Ancillary Services Benefits

Adds §§ 38.2-3407.2, 38.2-3407.3, 38.2-4209.1, 38.2-4209.2, 38.2-4312.1 and 38.2-4312.2 to provide that no insurer or health services plan proposing to issue preferred provider (PPO) policies or contracts, and no health maintenance organization (HMO) shall prohibit any person from receiving pharmacy benefits under the policies or contracts from the pharmacy of his choice, or ancillary services benefits under the policies or contracts from the ancillary services provider of his choice. The right of selection extends to and includes pharmacies and ancillary services providers that are non-preferred providers in the PPO or nonparticipating providers in the HMO, but who agree to accept reimbursement for their services at rates applicable to pharmacies and ancillary services providers that are preferred

mandates coverage for adoptive children, to prohibit insurers, health services plans or HMOs from restricting coverage for a child adopted or placed for adoption solely because of a pre-existing condition.

The changes that this bill addresses are required by federal legislation (OBRA '93).

House Bill 1344

Accident and Sickness Insurance; Small Employer Market Reform

Amends § 38.2-3430, the sunset provision of the limited mandated benefit policies article, which was enacted as House Bill 2353 during the 1993 session of the Virginia General Assembly. The 1994 bill provides that the limited mandated benefit article will not expire until January 1, 1995. The bill also changes the effective date of last year's House Bill 2353 to July 1, 1994. (Emergency Legislation - Effective March 31, 1994)

House Bill 1345

Accident and Sickness Insurance; Small Employer Market Reform

Incorporates significant and extensive technical, clarifying and substantive changes to the small employer market reform legislation introduced last year. Last year's House Bill 2353 established two guaranteed issue products and modified community rating in the 2-25 employees group health insurance market.

Recipients of this letter are strongly advised to obtain a copy of this bill or review the advance laws provided by NILS Publishing Company as soon as possible so as to begin preparations for compliance.

Senate Bill 235

Accident and Sickness Insurance; Exclusion of Workers' Compensation-covered Medical Conditions

Amends § 38.2-3405. The bill provides that when benefits which are paid or payable under workers' compensation are excluded from coverage under an accident and sickness policy or subscription contract or health services plan, the exclusion shall not apply if (i) an award of the Workers' Compensation Commission (WCC) pursuant to § 65.2-704 denies compensation benefits relating to the medical condition and no request is made for a review by the WCC of such award within the time prescribed by § 65.2-705; or (ii) an award of the WCC, after review by the full WCC pursuant to § 65.2-705 denies compensation benefits relating to such medical

316 or § 38.2-4306. The bill provides that the Commission may issue regulations to set standards for the accuracy and clarity of information presented on an EOB. The bill also provides that if a contract requires the payment of a specified percentage of the cost of covered services, the insurer, health services plan or HMO must calculate the amount payable based on the total amount actually paid to the provider of the services. Each claim payment not in compliance with this section will be considered a separate and distinct violation punishable under § 38.2-218 of the Code of Virginia.

Senate Bill 552

Accident and Sickness Insurance; Participation of Podiatrists

Amends §§ 38.2-4214 and 38.2-4319 and adds § 38.2-3407.2 to provide that a Podiatrist cannot be excluded from participating in a preferred provider plan (PPO) issued by an insurer or health services plan or from participating in an HMO solely because the PPO or HMO requires that participating providers have active medical staff privileges or admitting privileges at specified hospitals, provided that the Podiatrist has a delineation of privileges that enables him to perform the types of services that are covered by the PPO or HMO at the designated hospital. The bill specifies that the State Corporation Commission has no jurisdiction to adjudicate controversies arising out of this section.

FINANCIAL REGULATION

House Bill 337

Workers' Compensation; Group Self-Insurance Associations

Amends § 65.2-802 to enable group self-insurance associations to pool their liabilities for workers' compensation benefits in other jurisdictions. The amendment will allow group self-insurance associations licensed by the Commission to pay workers' compensation benefits on claims filed outside of Virginia, but only for employees otherwise eligible for workers' compensation coverage under Virginia law.

quarterly and other financial reports be filed with it and the NAIC in a machine-readable format.

- adds § 38.2-1301.1 to require disclosure of material transactions, including the acquisition and disposition of assets, and matters pertinent to certain reinsurance transactions. This change is based on the NAIC Disclosure of Material Transactions Model Act. Section 38.2-4123 is also amended so that these disclosure provisions are applicable also to fraternal benefit societies.
- amends §§ 38.2-1306 and 38.2-1306.1, which deal with confidentiality and the Commission's responsibility to make available public financial statements. The amendments will provide a more flexible framework for maintaining the confidentiality of special reports, while continuing to recognize that annual and quarterly financial statements filed by insurers are open to public inspection.
- amends § 38.2-1320.1 to provide that examination reports shall be furnished to persons examined within ninety days following completion of the examination. This is the time frame established in the NAIC Model Law on Examinations; sixty days is recited in the current statute.
- amends Article 5 of Chapter 13 of Title 38.2 to provide a new method for valuing subsidiary investments. This new valuation method takes into account all funds invested in certain subsidiaries, not just the value of admissible assets, when calculating value for the purpose of determining a threshold of materiality for regulatory approval of affiliate investments.
- amends §§ 38.2-1846, 38.2-1855, 38.2-1858 and 38.2-1863 to bring Virginia's Reinsurance Intermediary and Managing General Agents acts into compliance with the most current revisions to the accreditation-mandated model acts of the NAIC on these topics.

Senate Bill 134

Financial Regulation of Insurers

Amends several general financial regulation provisions of Title 38.2:

- amends §§ 38.2-1034 and 38.2-1225 dealing with surplus notes thereby making Virginia's language consistent with the NAIC Accounting Practices and Procedures Manual, an authoritative source for statutory accounting.
- amends § 38.2-1314, the loss and claims reserves section of Title 38.2, to establish the same non-specific additional reserve requirements for

Senate Bill 83

Continuing Education Requirements

Amends §§ 38.2-1866, 38.2-1868, 38.2-1869, 38.2-1871 and 38.2-1874 of Chapter 18 of Title 38.2 of the Code of Virginia to clarify many of the provisions of the continuing education requirements that were passed in 1993. Revision of subsection B of § 38.2-1866 clarifies that the law and regulation course requirement is two hours per biennium (total), and that it may cover relevant laws and regulations of any kind applicable in Virginia. Subsection A of § 38.2-1869 clarifies that the Virginia Insurance Continuing Education Advisory Board (Board) may require evidence of exemption from the requirements of this article. Subsection B of § 38.2-1869 clarifies that the requirements apply to residents and non-residents. The age 65 exemption is also clarified by amendment to subdivision 3 of subsection B of § 38.2-1871 and the immunity of Board members from personal liability is also clarified in subsection E of § 38.2-1874. (Emergency Legislation - Effective April 2, 1994)

Insurers are urged to remind all of their representatives licensed in Virginia that the first biennial compliance period for continuing education (CE) expires on December 31, 1994. Agents failing to complete the educational requirements by that date will subsequently have their license authority terminated for a minimum of 90 days. Please note that the CE program is NOT administered by the Bureau of Insurance. Course and sponsor approvals, course completion certificates, proof of compliance with home state CE requirements, etc. are handled by INSURANCE TESTING CORPORATION (ITC) on behalf of the Board. For further information on Virginia's CE requirements, contact ITC at 1-800-482-2366.

Senate Bill 204

Regulation and Administration of Insurance

Amends various sections of Title 38.2 of the Code of Virginia to provide technical administrative modifications necessary for administration of the insurance laws. Some of these amendments are:

Senate Bill 250

Bail Bond Agents

Amends Chapter 18 of Title 38.2 by allowing individuals or agencies to obtain a restricted license as a bail bond agent. Currently, such agents are required to obtain a full Property and Casualty license. The new law creates a license type that is exempt from the requirement for individuals of completing a 45 classroom hour study course and taking a written examination, and will also be exempt from Virginia's continuing education requirements. Bail bond agents are defined to mean agents licensed in the Commonwealth for the sole purpose of writing appearance bonds as surety, as defined in subdivision 3 of § 38.2-121 of the Code of Virginia.