

COMMONWEALTH OF VIRGINIA

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Administrative Letter 2014-04

To: All Insurers and Other Interested Parties

Re: Insurance-Related Legislation Enacted by the 2014 Virginia General Assembly

We have attached for your reference summaries of certain insurance-related statutes enacted or amended and re-enacted during the 2014 Session of the Virginia General Assembly. **The effective date of these statutes is July 1, 2014, except as otherwise indicated in this letter.** Each organization to which this letter is being sent should review the summaries 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. Copies of individual bills may be obtained at <http://lis.virginia.gov/cgi-bin/legp604.exe?ses=142&typ=lnk&val=53> or via the links we have provided in the summary headings. You may enter the bill number (not the chapter number) on the Virginia General Assembly Home Page, and you will be linked to the Legislative Information System. You may also link from the Legislative Information System to any existing section of the Code of Virginia. All statutory references made in the letter are to Title 38.2 (Insurance) of the Code of Virginia unless otherwise noted. All references to the Commission refer to the State Corporation Commission. The federal Patient Protection and Affordable Care Act is referred to as the ACA throughout this letter.

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 affecting insurance-related laws during the 2014 Session. Each person or organization is responsible for review of relevant statutes.

Sincerely

A handwritten signature in cursive script that reads 'Jacqueline K. Cunningham'.

Jacqueline K. Cunningham
Commissioner of Insurance

Attachment

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Chapter 154 ([Senate Bill 70](#))

The bill amends § 38.2-1611.1 (Property & Casualty Insurance Guaranty Association) and § 38.2-1705 (Life, Accident & Sickness Insurance Guaranty Association) by designating the Virginia Department of Taxation as the agency responsible for the collection of any surplus fund refunds from Guaranty Association member insurers after the insolvency of an insurer. The responsibility for the collection of premium license tax was transferred from the Commission to the Department of Taxation in 2011.

Chapter 155 ([Senate Bill 86](#)) and Chapter 411 ([House Bill 634](#))

The bill amends § 38.2-3115 (Life Insurance) to require the payment of interest on claims for variable annuity contracts beginning from the date of receipt of a completed claim form.

Chapter 198 ([House Bill 336](#))

The bill amends §§ 38.2-2803 [Medical Malpractice Joint Underwriting Association (JUA)] and 38.2-2903 (Commercial Liability Insurance JUA) to update the names of the insurance company trade associations referenced in the law. References to the Alliance of American Insurers are changed to the Property Casualty Insurers Association of America and references to the National Association of Independent Insurers are changed to the National Association of Mutual Insurance Companies.

Chapter 206 ([House Bill 466](#)) and Chapter 159 ([Senate Bill 406](#))

The bills amend §§ 38.2-1414 and 38.2-1433 (Investments) to increase the portion of a domestic insurer's total admitted assets allowed in foreign investments; increase the aggregate investments allowed in a single foreign jurisdiction; and allow investments to be payable in a foreign currency if the investment is effectively hedged, substantially in its entirety, against U.S. currency.

Chapter 248 ([Senate Bill 88](#)) (Effective January 1, 2015)

This bill adds a new Article 5.1 to Chapter 13 (Reports, Reserves & Examinations) of Title 38.2 of the Code of Virginia, setting forth the requirements for the completion and filing of an Own Risk and Solvency Assessment (ORSA). An ORSA is a confidential internal assessment conducted by an insurer, or the insurance group to which it is a member, of the material and relevant risks associated with the insurer's current

business plan and the sufficiency of capital resources to support those risks. These requirements apply to all insurers domiciled in Virginia unless they meet certain exemption provisions. The provisions of this bill will become effective on January 1, 2015.

Chapter 272 ([House Bill 308](#)) and Chapter 297 ([Senate Bill 201](#))

The bill adds a subsection C to § 38.2-3407.9.01 (Provisions Relating to Accident and Sickness Insurance) to require each insurer, corporation, or health maintenance organization that uses a prescription drug formulary for prescription drug benefits to provide at least 30 days' written notice to each group policy/contract holder and each individual policy/contract holder before making a modification to a drug formulary that moves a prescription drug to a tier with higher cost-sharing requirements. This requirement does not apply to modifications that occur at the time of coverage renewal.

Chapter 282 ([House Bill 771](#)) (Effective January 1, 2015)

The bill amends § 38.2-2217 (Liability Insurance Policies), as well as several sections in Title 46.2, to address mature driver crash prevention courses. Only those mature drivers who complete driver crash prevention courses that are voluntarily taken will qualify for a reduction in their insurance rates for the three-year period. Mature drivers assigned by the courts to take such crash prevention courses do not qualify for the reduction in their insurance rates.

Chapter 307 ([House Bill 33](#)) and Chapter 369 ([Senate Bill 484](#))

The bill amends § 38.2-3451 (Provisions Relating to Accident and Sickness Insurance). The bill specifies that the ACA requirement for inclusion of minimum essential pediatric oral health benefits will be satisfied for health plans available in the small group and individual markets outside an exchange and issued on or after January 1, 2015, if the health carrier has obtained reasonable assurance that the benefits are provided to the plan purchaser. The health carrier shall be deemed to have obtained reasonable assurance if certain requirements specified in the bill are met.

Chapter 308 ([House Bill 108](#))

The bill adds § 38.2-3407.15:1 (Provisions Relating to Accident and Sickness Insurance) to provide that any contract between a carrier and its intermediary, pursuant to which the intermediary has the right or obligation to conduct audits of participating pharmacy providers (PPP), and any provider contract between a carrier and a PPP or its contracting agent pursuant to which the carrier has the right or obligation to conduct audits of PPPs, must contain specific provisions which prohibit the carrier or

intermediary, in the absence of fraud, from recouping amounts calculated from or arising out of certain acts, claims or methods. The bill applies to contracts entered into, amended, extended, or renewed on or after January 1, 2015.

Chapter 309 ([House Bill 109](#)) (Part of Bill Effective January 1, 2015 - See Note)

The bill amends various sections of Chapter 13 of Title 38.2 (Reports, Reserves, Examinations, Insurance Holding Companies, etc.), §§ 38.2-4509 (Dental or Optometric Services Plans), and §§ 38.2-5500 and 38.2-5501 (Risk-Based Capital) to expand the Commission's authority to examine the financial condition of an insurer. The bill requires the ultimate controlling person of an insurance holding company system to submit a confidential Enterprise Risk filing; requires the parent company seeking to divest its interest in an insurance company subsidiary to provide notice to the domestic regulator prior to the divestiture; requires the insurer's board of directors to make statements regarding the corporate governance and internal control responsibilities within the annual holding company registration statement; subjects the cost-sharing services and management agreements among affiliated entities to minimum reporting requirements to eliminate the potential for capital to flow out of the insurer through these types of agreements; provides regulators with explicit authority to participate in supervisory colleges; and adds confidentiality protections for information shared. **Note:** The provisions of this bill are effective on July 1, 2014 with the exception of the amendments to Article 5 of Chapter 13 (§ 38.2-1322 et seq.), which are effective January 1, 2015.

Chapter 337 ([House Bill 755](#))

The bill amends §§ 38.2-1845.5 and 38.2-1845.8 (Insurance Agents) to require non-resident public adjusters to keep in force a bond in favor of the Commonwealth in the amount of \$50,000 with a surety licensed by the Commission. The bill also provides that no public adjuster license shall be renewed unless the applicant meets all of the initial requirements for licensure including the obtaining of the surety bond.

Chapter 350 ([House Bill 1166](#))

This bill amends § 38.2-3521.1 and adds § 38.2-3521.2 (Accident & Sickness Insurance Policies) to add blanket insurance as a type of group insurance that can be delivered in Virginia. Blanket insurance is defined as a form of limited accident and sickness insurance which provides coverage for specified circumstances or specific classes of persons defined in a policy issued to a master policyholder.

Chapter 417 ([House Bill 765](#)) and Chapter 157 ([Senate Bill 360](#))

The bill amends § 8.01-27.5 (Civil Remedies and Procedure Title); § 38.2-2201 (Liability Insurance Policies); and §§ 38.2-3407.12 and 38.2-3407.15 (Provisions Relating to Accident & Sickness Insurance) to update references to federal programs (Medicaid, CHIP, and TRICARE) in the definitions of “health care policy,” “group health benefit plan,” and “health plan.”

Chapter 511 ([House Bill 1176](#))

The bill amends § 38.2-3407.14 (Provisions Relating to Accident & Sickness Insurance), relating to notices of increases in premiums and deductibles. Insurers offering individual or group accident and sickness policies providing hospital, medical and surgical or major medical coverage on an expense-incurred basis; corporations providing subscription contracts; and health maintenance organizations providing health care plans are required to give written notice before renewal if there is an increase in premium or any deductible. The 60 days’ notice requirement increases to 75 days’ notice for policy renewals on or after January 1, 2015, for individual health insurance coverage. The Commission may adjust the time-frames relating to the provision of notices to account for delays in product or rate approval resulting from filing requirements established by the U.S. Department of Health & Human Services.

Chapter 571 ([House Bill 631](#)) (Effective January 1, 2015)

The bill adds a new Article 10 (Standard Valuation Act) to Chapter 13 of Title 38.2 (Reports, Reserves and Examinations) and amends numerous related sections in Title 38.2 to require insurers to use a principle-based reserve basis for life, annuity, and accident and health contracts, and to use a Valuation Manual adopted by the National Association of Insurance Commissioners (NAIC). The Valuation Manual will become effective on January 1 of the first calendar year following the first July 1 when certain conditions have been met, including that at least 42 states/U.S. jurisdictions have enacted the revised NAIC Standard Valuation Law model, or substantially similar terms and provisions. The provisions of this bill will become effective on January 1, 2015.

Chapter 769 ([House Bill 1043](#)) and Chapter 752 ([Senate Bill 542](#))

The bill amends and adds new sections to Article 7 (Navigators) of Chapter 34 (Provisions Relating to Accident & Sickness Insurance) to require navigators operating in the Commonwealth on and after September 1, 2014 to be registered with the Commission in addition to obtaining certification by the U.S. Department of Health & Human Services (HHS). The bill requires navigators to submit an application to the Commission in a form the Commission prescribes, pay an application fee, and provide a

criminal record history. The bill also requires each registered navigator to report to the Commission (i) any action taken by the HHS, (ii) any felony conviction and, (iii) the disposition of the matter of any administrative action taken against the navigator in another jurisdiction or by another governmental agency in the Commonwealth. The bill further authorizes the Commission's Bureau of Insurance to investigate individuals and entities involved in navigator activities.

Chapter 814 ([House Bill 1005](#))

This bill amends numerous sections of Chapter 34 (Provisions Relating to Accident & Sickness Insurance) and also makes these amendments applicable to health services plans and health maintenance organizations (HMOs). The bill repeals provisions relating to the conversion of health insurance coverage under a group policy to an individual policy and includes technical and conforming changes in related sections. The bill also limits the mandated offer of coverage requirement for the treatment of morbid obesity to the large group market. For HMOs, the bill limits the requirement to offer a point-of-service benefit to the large group market and exempts a qualified health plan offered in the Commonwealth by a health carrier through a health benefit exchange from the point-of-service offer requirement.