REPORT OF THE
SPECIAL ADVISORY COMMISSION ON
MANDATED HEALTH INSURANCE BENEFITS

MANDATED COVERAGE OF DIABETES

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA

SENATE DOCUMENT NO. 38

COMMONWEALTH OF VIRGINIA
RICHMOND
2000

COMMONWEALTH OF VIRGINIA

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GENERAL LAWS
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SENATE

January 10, 2000

To: The Honorable James S. Gilmore, III
Governor of Virginia
and
The General Assembly of Virginia

The report contained herein has been prepared pursuant to §§ 9-298 and 9-299 of the Code of Virginia.

This report documents a study conducted by the Special Advisory Commission on Mandated Health Insurance Benefits (Advisory Commission) to assess the social and financial impact and the medical efficacy of Senate Bill 244, Senate Bill 1104, and House Bill 1398, regarding mandatory coverage for diabetes.

Respectfully submitted,

Stephen H. Martin
Chairman
Special Advisory Commission on
Mandated Health Insurance Benefits

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INTRODUCTION

The Senate Committee on Commerce and Labor referred Senate Bill 86 and Senate Bill 244 to the Special Advisory Commission on Mandated Health Insurance Benefits (Advisory Commission) in 1998. The patron of Senate Bill 86 is Senator Charles J. Colgan, and the patron of Senate Bill 244 is Senator Janet D. Howell. The House Committee on Corporations, Insurance and Banking referred House Bill 1398, whose patron is Delegate Robert D. Orrock, to the Advisory Commission during the 1998 Session of the General Assembly. However, the Advisory Commission did not meet in 1998 and the bills were not heard prior to the 1999 Session of the General Assembly. Senate Bill 244 was referred to the 1999 Session by the Senate Committee on Commerce and Labor. The bill was passed by the House and Senate during the legislative session and then signed by the Governor. The bill became effective on July 1, 1999.

Senator Colgan reintroduced a mandate for coverage of diabetes in the 1999 session. The bill, Senate Bill 1104, was referred to the Advisory Commission by the Senate Committee on Commerce and Labor. The chairman of that committee also requested that Senate Bill 244 be reviewed by the Advisory Commission in 1999.

The Advisory Commission held a public hearing to receive comments on the bills on May 4, 1999, in Richmond. Six speakers spoke in support of the bills. Additional comments were made by representatives of Trigon Blue Cross Blue Shield to describe their implementation of the diabetes coverage requirement for state employee coverage. Written comments in support of the mandate were received from the Virginia Diabetes Legislative Coalition. The members of the coalition include the American Diabetes Association—Southern Region, the Virginia Diatetic Association, the Central Virginia Association of Diabetes Educators, Eastern Virginia Association of Diabetes Educators, Mountain Region Association of Diabetes Educators, Capitol Association of Diabetes Educators, and the Virginia Pharmacist's Association.

The Advisory Commission concluded its review of the bills on June 1, 1999.

SUMMARY OF PROPOSED LEGISLATION

Senate Bill 1104, Senate Bill 244, and House Bill 1398 all amend the accident and sickness chapter of Title 38.2 of the Code of Virginia by adding a section to require any insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health

maintenance organization (HMO) providing a health care plan for health care services to provide coverage for diabetes as provided in the bill.

The coverage must include benefits for equipment, supplies, and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes, and non-insulin using diabetes if prescribed by a health care professional legally authorized to prescribe such items under law. Diabetes outpatient self-management training and education must be provided by a certified, registered, or licensed health care provider to qualify for coverage under these bills.

Insurers, corporations or HMOs cannot impose upon any person receiving benefits pursuant to this section any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category. The bills do not apply to short-term travel, accident only, limited or specified disease, or individual conversion policies or contracts, nor to policies or contracts designed for issuance to persons eligible for similar coverage under state or federal governmental plans. These bills apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended on and after July 1, 1999 (July 1, 1998 in House Bill 1398), or at any time thereafter when any term of the policy, contract or plan is changed or any premium adjustment is made.

SOCIAL IMPACT

According to information provided by the United States Department of Health and Human Services (HHS) in the "National Diabetes Fact Sheet," diabetes mellitus (diabetes) is a group of diseases characterized by high levels of blood glucose resulting from defects in insulin secretion, insulin action, or both. The American Diabetes Association (ADA) states that diabetes is a chronic illness that requires continual medical care and education to prevent acute complications and to reduce the risk of long-term complications. Diabetes can be associated with serious complications and premature death, but persons with diabetes can take measures to reduce the likelihood of such occurrences. The HHS estimates that 15.7 million people (or 5.9% of the population) have diabetes. Using 1996 population estimates, the Virginia Department of Health (VDH) estimates that there are 220,000 diabetics in Virginia. There are approximately 75,000 additional diabetics who are not diagnosed.

There are generally four types of diabetes. The HHS reports that Type I diabetes (previously called juvenile-onset diabetes or insulin-dependent diabetes) may account for 5% to 10% of all diagnosed cases of diabetes. Type II diabetes (previously know as adult-onset diabetes or noninsulin-dependent diabetes) may account for 90% to 95% of all diagnosed cases of diabetes.

According to the HHS, gestational diabetes develops in 2% to 5% of all pregnancies, but disappears when a pregnancy ends. Other specific types of diabetes result from specific genetic syndromes, surgery, drugs, malnutrition, infections, and other illnesses. The HHS reports that such types of diabetes may account for 1% to 2% of all diagnosed cases of diabetes.

Diabetes can cause both short-term and long-term health complications. Short-term complications include problems associated with inadequate control of blood sugar levels, which can lead to coma; infectious, metabolic, or neurological complications; hospitalization; a need for emergency room care; and even death. Long-term complications can include blindness, kidney disease, amputations, heart disease, stroke, and death.

TREATMENT OF DIABETES

Six organizations working in cooperation for the advancement of diabetes treatment, public awareness and education of diabetes, and access to diabetes treatments formed the Virginia Diabetes Legislative Coalition (VDLC). The VDLC member organizations are the American Diabetes Association (ADA), Virginia Dietetic Association, Central Virginia Association of Diabetes Educators, Eastern Virginia Association of Diabetes Educators, Mountain Region Association of Diabetes Educators, and Capitol Association of Diabetes Educators. The VDLC states that treatment of diabetes is aimed at keeping blood glucose near normal levels at all times. Training in self-management is integral to the treatment of diabetes. Treatment programs must be individualized and must address medical, psychosocial, and lifestyle issues. Treatment programs include, but are not limited to:

- Frequent self-monitoring of blood glucose;
- Meticulous attention to meal planning;
- Regular exercise;
- Physiologically-based insulin injections;
- Instruction in the prevention and treatment of hypoglycemia and other acute and chronic complications;
- Continuing education and reinforcement; and
- Periodic assessment of treatment goals.

The ADA notes that to be effective, treatment programs require ongoing support from the clinical care team.

The lack of insulin production by the pancreas makes Type 1 diabetes difficult to control. The ADA also notes that treatment of Type 1 diabetes includes insulin, a meal plan developed by a registered dietician, an exercise regimen developed by a health care practitioner, and daily blood and urine

testing equipment. Treatment for Type 2 diabetes typically includes diet control, exercise, home glucose testing, and in some cases, oral medication and/or insulin. The HHS reports that approximately 40% of people with Type 2 diabetes require insulin injections.

MEDICAL EFFICACY

Proponents of the bills contend that a successful program for the treatment of diabetes must include periodic, thorough self-management education and nutrition training provided by trained and certified health care professionals. The ADA states that people with diabetes should receive their treatment and care from a physician-coordinated team. The teams usually include, but are not limited to, physicians, nurses, dieticians, and mental health professionals with expertise and a special interest in diabetes.

The ADA notes that achieving near normal or normal blood glucose levels in diabetes requires comprehensive training in self-management, and, for most individuals, intensive treatment programs. Outpatient education is now accepted as an integral part of diabetes care. Diabetics must learn to balance their special diet and exercise requirements with drug therapy. Diabetics must also learn self-care techniques, such as monitoring their own blood glucose, self-treating insulin reactions, and how to protect feet that are numb and have circulatory problems. These are complicated tasks for patients to learn.

A study conducted by Milliman and Robertson, Inc. entitled "Diabetes Preventive Care Cost Impact Study for the American Diabetes Association" found that an estimated 65% of people with diabetes have never attended a class or program for diabetes. An article provided by the VDLC entitled "Diabetes Outpatient Education: The Evidence of Cost Savings," states that a lack of reimbursement is probably the most significant impediment to the development of diabetes outpatient education programs. The article notes that it is simpler to receive reimbursement for inpatient care and absorb the costs of education, but it is more expensive and less effective than outpatient education.

The Milliman and Robertson study found that while education received during an inpatient stay or an office visit is usually covered, outpatient education programs are often not covered. Supplies such as glucose monitors, test strips, and syringes are often paid for by the patient. The Milliman and Robertson study concluded that covering the proposed package of benefits for people with diabetes will likely result in net savings to insurers and managed care organizations.

FINANCIAL IMPACT

Diabetes is one of the most prevalent chronic diseases in the United States and a leading cause of death. The disease is costly because it is one of the most common chronic conditions and often causes permanent damage to the body. An article provided by the VDLC entitled "Costs of Diabetes" from Diabetes 1996: Vital Statistics states that compared to people without diabetes, Americans with diabetes have two to five times higher per capita total medical expenditures and per capita out-of-pocket expenses. It was estimated in 1992 that the average total direct cost of medical care was $111,157 per person with diabetes per year. Direct costs are those expenses necessary to manage and treat diabetes and its complications. Proponents contend that preventive diabetic care, training, and education result in overall savings because proper care improves the health of the patient.

The Milliman and Robertson study supports the ADA's contention that coverage of supplies and education results in net savings to insurers due to improved health for people with diabetes. The "Costs of Diabetes" article notes that people without insurance are more than twice as likely as people with private insurance to be hospitalized for diabetic ketoacidosis (high blood glucose) or coma. The article also notes that a comparison of adults with insulin-dependent diabetes with their non-diabetic counterparts showed that the risk of having been denied a health insurance policy, at least once, was much higher for those with insulin-dependent diabetes.

The American Diabetes Association highlights a report in the New England Journal of Medicine indicating that an integrated system of diabetes outpatient education and care resulted in a 73% reduction in hospitalization and a 78% reduction in average length of stay for 6,000 people with diabetes participating in the study. There was an estimated savings of $2,319 per patient per year. The report is included in the ADA's report entitled "Diabetes Outpatient Education: The Evidence of Cost Savings."

CURRENT INDUSTRY COVERAGE

Twenty-one insurers completed the State Corporation Commission's 1999 Bureau of Insurance survey regarding coverage for diabetes. Thirteen of the twenty-one respondents (61%) reported that they provided the coverage required by Senate Bill 244. Thirteen respondents provided monthly cost estimates for the coverage under group policies. The estimates ranged from $0.01 to $2.72 with one insurer estimating $6.00. Five companies provided cost estimates for individual coverage. The estimates ranged from $0.01 to $1.38 per month with one insurer estimating $3.00.

An article in the January 19, 1998 edition of *National Underwriter,* entitled "Diabetes Benefits Mandates on the Rise," notes that managed care organizations, which traditionally stress preventative care, provide substantial coverage for diabetes. However, patients are frequently required to pay for physician office visits for diabetes information and education, including nutrition and exercise. Proponents of the bill contend that while insurers generally provide coverage for insulin, some do not provide coverage for other necessary equipment and supplies, such as insulin needles, lancets, urine and blood test strips, or glucose meters.

An article provided by the VDLC entitled "Health Insurance and Diabetes" by Maureen I. Harris, Ph.D., MPH states that virtually all diabetic persons covered by Medicare or private insurance have coverage for hospital care and physician and surgeon bills. The article notes that 86.5% of all adults between 18 and 65 years of age in the United States, and 98.8% of all adults with diabetes over the age of 65 have some form of health insurance coverage for diabetes. An article entitled "Diabetes Patient Education Programs: Quality and Reimbursement" by M.M. Wheeler and E. Warren-Boulton states that many efforts have been made to ensure quality in diabetes education programs through the ADA recognition process and the credentials program of the National Certification Board for Diabetes Educators. However, third-party coverage is inconsistent for education and training programs that have met national standards, as well as for educators who have been certified.

COVERAGE IN OTHER STATES

According to information provided by the National Association of Insurance Commissioners and the National Insurance Law Service, thirty-one states mandated coverage for equipment, supplies, and outpatient self-management training and education for diabetics, including medical nutrition therapy, as of April, 1999. Four additional states require insurers to provide optional coverage for similar benefits (See Appendix D).

The most recent legislative activity was in Kentucky, Utah, and Arizona. The mandates require self-management training to be provided by an appropriately certified, licensed, or registered health care provider or organization knowledgeable on diabetes. Self-management training generally includes dietary and nutrition education. One-third of the states limits the coverage for self-management training to medically necessary visits upon diagnosis or re-education or refresher education when a patient's symptoms or conditions change significantly.

REVIEW CRITERIA

SOCIAL IMPACT

a. *The extent to which the treatment or service is generally utilized by a significant portion of the population.*

The Virginia Department of Health, citing the 1996 population, estimates that there are 220,000 diabetics in Virginia and an additional 75,000 diabetics who are not diagnosed. The United States Department of Health and Human Services estimates that 5.9% of the United States population has diabetes.

b. *The extent to which insurance coverage for the treatment or service is already available.*

Twenty-one insurers responded to the Bureau of Insurance's survey on coverage required by Senate Bill 244. Thirteen of the twenty-one responding companies indicated that they provided the coverage required by the bill prior to July 1, 1999.

c. *If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatments.*

VDLC contends that coverage is not available for self-management training that allows people to manage daily decisions to treat diabetes. Diabetic supplies are often not covered according to VDLC. The supplies include blood glucose test strips, lancets, blood glucose monitors, and insulin syringes.

VDLC contends that some individuals without coverage for diabetes education and diabetes supplies will go without these services and supplies. Others will pay for them out-of-pocket.

The lack of care can result in expensive, chronic complications of the disease. The complications can include kidney disease, heart disease, vision impairment, and strokes.

d. *If the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment.*

According to VDLC, the average cost of supplies for a person using insulin is $13 per week or $564 per year. The average cost for a visit with a diabetes nurse or nutrition educator is $70 and the cost of a diabetes education program is $350. A person who is not required to use insulin is estimated by VDLC to spend $520 per year.

e. *The level of public demand for the treatment or service.*

VDLC estimates that 277,777 Virginians have diabetes. It is acknowledged that many of the individuals with the condition are not aware of it.

f. *The level of public demand and the level of demand from providers for individual and group insurance coverage of the treatment or service.*

Four groups of diabetes educators are members of the coalition that supported the bill. In addition, oral testimony was provided by a physician. Written comments, included in the VDLC submission, were received from ten citizens. Written comments were also included from other health care professionals.

g. *The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts.*

The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts is not known.

h. *Any relevant findings of the state health planning agency or the appropriate health system agency relating to the social impact of the mandated benefit.*

The Virginia Diabetes Task Force was founded to coordinate diabetes related efforts of the public health system with private health care providers and payors, along with government and volunteer organizations and professional and academic institutions. The task force membership included over 40 Virginia organizations. The task force's purpose was to advise and coordinate state efforts that would reduce the burden of diabetes in Virginia. The 1998 state plan focuses on four key issues: surveillance, reimbursement, education, and access to care. In the area of reimbursement, the goal of the plan is to prevent costly complications and to allow diabetics to have healthy and productive lives. The plan summary states that diabetes self-management education and medical supplies must be available, by access and affordability to everyone with diabetes.

FINANCIAL IMPACT

a. *The extent to which the proposed insurance coverage would increase or decrease the cost of treatment or service over the next five years.*

The mandate of coverage for diabetes is not expected to increase or decrease the cost of care over the next five years. Proponents make the argument that the coverage under the bill will decrease the more expensive costs of medical care for complications that result from the condition.

b. *The extent to which the proposed insurance coverage might increase the appropriate or inappropriate use of the treatment or service.*

It is anticipated that the appropriate use of the treatment may increase with coverage. Inappropriate use of the treatment is not expected to increase. Supplies and education would be used with professional medical guidance. Overuse of insulin would be harmful to the patient and would not be prescribed.

c. *The extent to which the mandated treatment or service might serve as an alternative for more expensive or less expensive treatment or service.*

Proponents make the argument that coverage for diabetes supplies and self-management education is less expensive than providing the care needed when those with diabetes are not properly managed. Emergency room visits and hospitalizations can be reduced and the expensive complications of vision deterioration, heart disease, and kidney damage can be delayed or prevented.

d. *The extent to which the insurance coverage may affect the number and types of providers of the mandated treatment or service over the next five years.*

It is unlikely that this proposed coverage would significantly affect the number and types of providers of the mandated services. There could be some increase in the number of individuals providing education. However, the bill requires the self-management training and education to be provided by certified, registered, or licensed health care providers to obtain coverage under the bill.

e. *The extent to which insurance coverage might be expected to increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders.*

An increase in the administrative expenses of insurance companies and the premiums and administrative expenses for policyholders is anticipated because of the expenses associated with such things as policy redesign, form filing claims processing systems, and marketing.

Twenty-one insurers completed the State Corporation Commission's 1999 Bureau of Insurance survey regarding coverage for diabetes. Thirteen of the twenty-one respondents (61%) reported that they provided the coverage required by Senate Bill 244. Thirteen respondents provided monthly cost estimates for the coverage under group policies. The estimates ranged from $0.01 to $2.72 with one insurer estimating $6.00. Five companies provided cost estimates for individual coverage. The estimates ranged from $0.01 to $1.38 per month with one insurer estimating $3.00.

f. The impact of coverage on the total cost of health care.

The study conducted by Milliman and Robertson for the American Diabetes Association analyzed the expected impact on insured health care costs of requiring insurers and HMOs to cover certain supplies, equipment, and education for diabetes. The study's results indicate that coverage of supplies and education will likely result in net savings to insurers and improved health for people with diabetes. The estimates of the net cost impact ranged from an average annual net savings of $1,971 to a net cost of $237 per person with diabetes per year when care is provided in a non-managed care system. The most likely scenario shows $917 in annual savings. Expected cost savings in a managed system ranged from annual savings per person with diabetes of $741 to annual additional costs of $355, with the most likely scenario showing annual savings of $246. The estimates are based on the average annual impact during a five-year period. The cost estimates are provided in 1996 dollars.

MEDICAL EFFICACY

a. The contribution of the benefit to the quality of patient care and the health status of the population, including the results of any research demonstrating the medical efficacy of the treatment or service compared to alternatives or not providing the treatment or service.

Studies on diabetes have indicated that self-management training improves outcomes. Participants in diabetes self-management training programs have improved glucose control, fewer lower extremity amputations, and fewer emergency room visits and hospitalizations.

b. *If the legislation seeks to mandate coverage of an additional class of practitioners:*

1) *The results of any professionally acceptable research demonstrating the medical results achieved by the additional class of practitioners relative to those already covered.*

Not applicable.

2) *The methods of the appropriate professional organization that assure clinical proficiency.*

Not applicable.

EFFECTS OF BALANCING THE SOCIAL, FINANCIAL, AND MEDICAL EFFICACY CONSIDERATIONS

a. *The extent to which the benefit addresses a medical or a broader social need and whether it is consistent with the role of health insurance.*

Coverage for diabetes, including supplies and education, is consistent with the role of health insurance. Diabetes is a chronic medical condition and coverage addresses a true medical need. The social benefit of the care required by the bill is the improved quality of life the bill provides for diabetes patients and their families.

b. *The extent to which the need for coverage outweighs the costs of mandating the benefit for all policyholders.*

Insurers responding to the Bureau of Insurance's survey supplied cost figures of from $.01 to $2.72 per month per policy with one insurer estimating $6.00 per month for group coverage. Insurers offering individual coverage estimated $0.01 to $1.38 per month with one insurer estimating $3.00 per month.

Proponents make the argument that overall costs will decrease, if the legislation is implemented.

c. *The extent to which the need for coverage may be solved by mandating the availability of the coverage as an option for policyholders.*

It is expected that the cost of a mandated offer of coverage would be higher because the cost would rest on only those who select the coverage. In

the case of group coverage, the decision whether to select the optional coverage or not would lie with the master contract holder and not the individual. Therefore, coverage may not reach some people who need or want it.

RECOMMENDATION

The Advisory Commission unanimously voted on June 1, 1999 to recommend that Senate Bill 244, Senate Bill 1104, and House Bill 1398 be enacted. Testimony and written submissions indicated that a mandate of coverage for diabetes is a requirement that can result in better health outcomes with minimal cost.

CONCLUSION

The Advisory Commission believes that a mandate of coverage for diabetes, including self-management training and supplies, is beneficial to Virginia. There was no opposition to the bill during the review of the legislation.

ENROLLED

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3418.8, relating to accident and sickness insurance; coverage for diabetes.

[S 244]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-4319 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3418.8 as follows:

§ 38.2-3418.8. Coverage for diabetes.

A. Each insurer proposing to issue an individual or group hospital policy or major medical policy in this Commonwealth, each corporation proposing to issue an individual or group hospital, medical or major medical subscription contract, and each health maintenance organization providing a health care plan for health care services shall provide coverage for diabetes as provided in this section.

B. Such coverage shall include benefits for equipment, supplies and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and noninsulin using diabetes if prescribed by a health care professional legally authorized to prescribe such items under law.

C. To qualify for coverage under this section, diabetes outpatient self-management training and education shall be provided by a certified, registered or licensed health care professional.

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

E. The requirements of this section shall apply to all insurance policies, contracts and plans delivered, issued for delivery, reissued, or extended on and after July 1, 1999, or at any time thereafter when any term of the policy, contract or plan is changed or any premium adjustment is made.

F. This section shall not apply to short-term travel, accident only, limited or specified disease, or individual conversion policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

§ 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, 38.2-200, 38.2-203, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 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.) of this title, §§ 38.2-1057, 38.2-1306.2 through 38.2-1309, Articles 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, 38.2-3407.2 through 38.2-3407.6, 38.2-3407.9; 38.2-3407.10, 38.2-3407.11, 38.2-3407.12, 38.2-3411.2, 38.2-3414.1, 38.2-3418.1 through ~~38.2-3418.7~~ *38.2-3418.8*, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3542, 38.2-3543.2, Chapter 53 (§ 38.2-5300 et seq.) and Chapter 58 (§ 38.2-5800 et seq.) of this title 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.) of this title except with respect to the activities of its health maintenance organization.

B. 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.

C. 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.

D. 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.

2. That the provisions of this act shall become effective notwithstanding the provisions of § 9-299.

994724633

SENATE BILL NO. 1104

Offered January 20, 1999

A BILL to amend and reenact § 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3418.8, relating to the health care plan for state employees; accident and sickness insurance; coverage for diabetes.

Patron—Colgan

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-4319 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 38.2-3418.8 as follows:

§ 38.2-3418.8. Coverage for diabetes.

A. Each insurer proposing to issue an individual or group hospital policy or major medical policy in this Commonwealth, each corporation proposing to issue an individual or group hospital, medical or major medical subscription contract, and each health maintenance organization providing a health care plan for health care services shall provide coverage for diabetes as provided in this section.

B. Such coverage shall include benefits for equipment, supplies and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and noninsulin-using diabetes if prescribed by a health care professional legally authorized to prescribe such items under law.

C. To qualify for coverage under this section, diabetes outpatient self-management training and education shall be provided by a certified, registered or licensed health care professional with expertise in diabetes.

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

E. The requirements of this section shall apply to all insurance policies, contracts and plans delivered, issued for delivery, reissued, or extended on and after July 1, 1999, or at any time thereafter when any term of the policy, contract or plan is changed or any premium adjustment is made.

F. This section shall not apply to short-term travel, accident only, limited or specified disease, or individual conversion policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

§ 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, 38.2-200, 38.2-203, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 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.) of this title, 38.2-1057, 38.2-1306.2 through 38.2-1309, Articles 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, 38.2-3407.2 through 38.2-3407.6, 38.2-3407.9, 38.2-3407.10, 38.2-3407.11, 38.2-3407.12, 38.2-3411.2, 38.2-3414.1, 38.2-3418.1 through ~~38.2-3418.7~~ *38.2-3418.8*, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3542, 38.2-3543.2, Chapter 53 (§ 38.2-5300 et seq.) and Chapter 58 (§ 38.2-5800 et seq.) of this title 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.) of this title except with respect to the activities of its health maintenance organization.

B. 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.

C. 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.

D. 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.

APPENDIX C

989822388

HOUSE BILL NO. 1398

Offered January 26, 1998

A BILL to amend and reenact § 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3418.3, relating to accident and sickness insurance; coverage for diabetes.

Patrons—Orrock; Senator: Mims

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:

1. That 38.2-4319 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3418.3 as follows:

§ 38.2-3418.3. Coverage for diabetes.

A. Each insurer proposing to issue an individual or group hospital policy or major medical policy in this Commonwealth, each corporation proposing to issue an individual or group hospital, medical or major medical subscription contract, and each health maintenance organization providing a health care plan for health care services shall provide coverage for diabetes as provided in this section.

B. Such coverage shall include benefits for equipment, supplies and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and noninsulin using diabetes if prescribed by a health care professional legally authorized to prescribe such items under law.

C. To qualify for coverage under this section, diabetes outpatient self-management training and education shall be provided by a certified, registered or licensed health care professional.

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

E. The requirements of this section shall apply to all insurance policies, contracts and plans delivered, issued for delivery, reissued, or extended on and after July 1, 1998, or at any time thereafter when any term of the policy, contract or plan is changed or any premium adjustment is made.

F. This section shall not apply to short-term travel, accident only, limited or specified disease, or individual conversion policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

§ 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, 38.2-200, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 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.) of this title, 38.2-1057, 38.2-1306.2 through 38.2-1309, Article 4 (§ 38.2-1317 et seq.) of Chapter 13, §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3407.2 through 38.2-3407.6, 38.2-3407.9, 38.2-3407.10, 38.2-3407.11, 38.2-3411.2, 38.2-3414.1, 38.2-3418.1, 38.2-3418.1:1, 38.2-3418.1:2, 38.2-3418.2, *38.2-3418.3,* 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, 38.2-3514.1, 38.2-3514.2, 38.2-3525, 38.2-3542, Chapter 53 (§ 38.2-5300 et seq.) and Chapter 54 (§ 38.2-5400 et seq.) of this title 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.) of this title except with respect to the activities of its health maintenance organization.

B. 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.

C. 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.

D. 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.

COVERAGE FOR DIABETES EQUIPMENT, SUPPLIES, AND SELF-MANAGEMENT TRAINING AND EDUCATION IN OTHER STATES

STATE	CITATION AND DATE EFFECTIVE	SUMMARY
Arkansas	§ 23-74-101 § 23-75-101(hospital medical service corporations) § 23-76-101(HMOs) (1997)	Coverage for one per lifetime training program per insured for diabetes self-management training when medically necessary as determined by a physician. Every health care insurer shall offer additional diabetes self-management in the event a physician prescribes additional diabetes self-management training and it is medically necessary because of a significant change in the insured's symptoms or condition. Coverage includes medically necessary equipment, supplies and services for the treatment of diabetes, when prescribed by a licensed physician.
California	§ 10176.6 (disability) § 1367.5 (health care service plans) (1982)	Optional coverage for diabetic self-management and education programs.
Colorado	10-16-104 (all plans) (1998)	Coverage for equipment, supplies and outpatient self-management training and education.
Connecticut	97-268 § 4 (individual) (1997)	Coverage for medically necessary treatment of diabetes. Coverage shall include medically necessary equipment, drugs and supplies. Coverage for laboratory and diagnostic tests for all types of diabetes.
Florida	627.6408 (individual) 627.65745 (group) 641.31 (HMOs) (1996)	Coverage for all medically appropriate and necessary equipment, supplies, and diabetes outpatient self-management training and educational services used to treat diabetes, if the treating physician certifies it is medically necessary.
Georgia	33-24-59.1 (all plans) (1998)	Coverage for medically necessary equipment, supplies, pharmacologic agents, and outpatient self-management training and education.
Indiana	27-8-14.5-6 (individual, group, HMO) (1998)	Coverage for diabetes self-management limited to one or more visits after receiving diagnosis of diabetes, a significant change in the insured's symptoms and condition, or to make changes in the insured's self-management medically necessary. Coverage also includes coverage for one or more visits for re-education or refresher training.

COVERAGE FOR DIABETES EQUIPMENT, SUPPLIES, AND SELF-MANAGEMENT TRAINING AND EDUCATION IN OTHER STATES

STATE	CITATION AND DATE EFFECTIVE	SUMMARY
Iowa	509.3 (individual, group) 514.7 (nonprofits) 514B.1 (HMOs) (1997)	Optional coverage for diabetic outpatient self-management education programs, under terms and conditions agreed upon between the insurer and the policyholder. The outpatient self-management education programs shall be provided by a licensed physician, nurse, or pharmacist knowledgeable about the disease process of diabetes.
Kansas	Section 28 of SB 439 (1999)	Coverage for equipment and supplies limited to hypodermic needles and supplies used exclusively with diabetes management. Coverage includes outpatient self-management training and education.
Louisiana	§ 22:215.18 (individual, group, HMOs) (1998)	Coverage for equipment, supplies, and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes, and non-insulin using diabetes if prescribed by a physician or, if applicable, the patient's primary care physician. Coverage includes a one-time evaluation and training program per policy for diabetes self-management when medically necessary as determined by a physician (cost not to exceed $500). Additional training will be provided if a physician prescribes it because of a significant change in the insured's symptoms or conditions (limited to $100 and a lifetime limit of $2000 per insured)
Maine	24-A § 2754 (individual) 24-A § 2847-E (group) 24-A § 4240 (HMO) 24 § 2332-F (nonprofit) (1996)	Coverage for the medically appropriate and necessary equipment, limited to insulin, oral hypoglycemic agents, monitors, test strips, syringes and lancets, and the outpatient self-management training and education services used to treat diabetes. Training is to be provided by the State's Diabetes Control Project.
Maryland	§ 15-822 (all plans) (1998)	Coverage for all medically appropriate and necessary diabetes equipment, diabetes supplies, and diabetes outpatient self-management training and educational services, including medical nutrition therapy, that the insured's treating physician certifies are necessary for the treatment of insulin-using diabetes, non-insulin using diabetes, or gestational diabetes.
Massachusetts	175:47N (individual & group) 176G:4H (HMOs) 176A:8P (nonprofits) (1994)	Coverage for blood glucose monitoring strips.

COVERAGE FOR DIABETES EQUIPMENT, SUPPLIES, AND SELF-MANAGEMENT TRAINING AND EDUCATION IN OTHER STATES

STATE	CITATION AND DATE EFFECTIVE	SUMMARY
Minnesota	62A.45 (1997)	Coverage for all physician-prescribed medically appropriate and necessary equipment and supplies used in the management and treatment of diabetes, diabetes outpatient self-management training and education, including medical nutrition therapy.
Mississippi	Chapter 483 (1999)	Optional coverage for equipment, supplies used in connection with the monitoring of blood glucose and insulin administration and self-management training/education and medical nutrition therapy. The cost of the self-management training/education is not to exceed $250 annually.
Missouri	376.385 (all plans) (1997)	Optional coverage for all physician-prescribed medically appropriate and necessary equipment, supplies and self-management training used in the management and treatment of diabetes.
Nevada	214 AB 477 (1997)	Coverage for the management and treatment of diabetes, including, without limitation, coverage for the self-management of diabetes. Training provided following initial diagnosis and following a significant change in the symptoms or conditions of the insured person, which requires modification of his treatment program.
New Hampshire	Chapter 258, HB 511 (1998)	Coverage for medically appropriate and necessary outpatient self-management training and educational services. Policies which provide a prescription rider shall cover medically appropriate or necessary insulin, oral agents and equipment used to treat diabetes. Policies providing benefits for medical or hospital expenses shall provide coverage for medically appropriate or necessary equipment used to treat diabetes.
New Jersey	17B:26-2.11 (individual) 17B:27-46.1m (group) 17:48E-35.11 (health serv.) 17:48A-71 (medical serv.) 17:48-6n (hospital serv.) 25:2J-4.11 (HMO) (1995)	Coverage for the treatment of diabetes including blood glucose monitors and blood glucose monitors for the legally blind; test strips for glucose monitors and visual reading and urine testing strips, insulin, injection aides; cartridges for the legally blind; syringes, insulin pumps and appurtenances thereto; insulin infusion devices; and oral agents for controlling blood sugar. Coverage includes self-management education to ensure that a person with diabetes is educated as to the proper self-management and treatment of their diabetic condition, including information on proper diet.

COVERAGE FOR DIABETES EQUIPMENT, SUPPLIES, AND SELF-MANAGEMENT TRAINING AND EDUCATION IN OTHER STATES

STATE	CITATION AND DATE EFFECTIVE	SUMMARY
New Mexico	59A-22-41 (individual, group) 59A-46-43 (HMO) (1997)	Coverage for individuals with insulin-using diabetes, with non-insulin-using diabetes, with gestational diabetes and entitles each individual to the medically accepted standard of medical care for diabetes and benefits for diabetes treatment as well as diabetes supplies. Coverage includes self-management and diet education limited to medically necessary visits upon diagnosis or re-education or refresher education when a patient's symptoms or condition changes significantly.
New York	§ 3216 (individual) § 3221 (group) § 4322 (HMOs) (1995)	Coverage for the following equipment and supplies: blood glucose monitors and blood glucose monitors for the legally blind, data management systems, test strips for glucose monitors and visual reading and urine testing strips, insulin, injection aids, cartridges for the legally blind, syringes, insulin pumps and appurtenances thereto insulin infusion devices, and oral agents for controlling blood sugar. Coverage includes self-management and diet education limited to medically necessary visits upon diagnosis or re-education or refresher education when a patient's symptoms or condition changes significantly.
North Carolina	§ 58-51-61 (individual, group) § 58-67-74 (HMOs) § 58-65-91 (hospital service plan) (1997)	Coverage for medically appropriate and necessary services (self-management training and education) and equipment, supplies, medications, and laboratory procedures used to treat diabetes.
Oklahoma	36 § 6060.2 (all plans) (1996)	Coverage for the following equipment and supplies when medically necessary and appropriate: blood glucose monitors, blood glucose monitors for the legally blind, test strips for glucose monitors, visual reading and urine testing strips, insulin, injection aids, cartridges for the legally blind, syringes, insulin pumps and appurtenances thereto, insulin infusion devices, oral agents for controlling blood sugar, and podiatric appliances for prevention of complications associated with diabetes (list to be updated annually). Coverage includes diabetes self-management training limited to medically necessary visits upon diagnosis of diabetes, visits following a significant change in the patient's symptoms or condition, visits when re-education or refresher training is medically necessary.
Oregon	743.704 (group) (1989)	Coverage for diabetes self-management training. Coverage is limited to the first diabetes education program.

COVERAGE FOR DIABETES EQUIPMENT, SUPPLIES, AND SELF-MANAGEMENT TRAINING AND EDUCATION IN OTHER STATES

STATE	CITATION AND DATE EFFECTIVE	SUMMARY
Rhode Island	27-18-38 (individual and group) 27-19-35 & 27-20-30 (nonprofits) 27-41-44 (HMOs) (1996)	Coverage for equipment and supplies. Coverage includes blood glucose monitors, blood glucose monitors for the legally blind, test strips for glucose monitors and/or visual reading, insulin, injection aids, cartridges for the legally blind, syringes, insulin pumps and appurtenances thereto, insulin infusion devices, oral agents for controlling blood sugar, and therapeutic/molded shoes for the prevention of amputation.
Tennessee	56-7-2605 (all plans) (1997)	Coverage for equipment, supplies, and outpatient self-management training and education, including medical nutrition counseling, when prescribed by a physician as medically necessary for the treatment of diabetes. Equipment and supplies include: blood glucose monitors, visual reading and urine strips, insulin, injection aids, syringes, lancets, insulin pumps, insulin infusion devices and appurtenances thereto, oral hypoglycemic agents, podiatric appliances for prevention of complications associated with diabetes, and Glucagon emergency kits.
Texas	21.53G (all plans) (1997)	Coverage for equipment, supplies and self-management training. Coverage for equipment includes: blood glucose monitors, including monitors designed to be used by blind individuals, insulin pumps and associated appurtenances, insulin infusion devices, and podiatric appliances for the prevention of complications associated with diabetes. Coverage for supplies include: test strips for blood glucose monitors, visual reading and urine test strips, lancets and lancet devices, insulin and insulin analogs, injection aids, syringes, prescriptive and nonprescriptive oral agents for controlling blood sugar levels, and Glucagon emergency kits. Coverage includes diabetes self-management training limited to medically necessary visits upon diagnosis of diabetes, visits following a significant change in the patient's symptoms or condition, periodic continuing education training when prescribed as warranted by the development of new techniques and treatments of diabetes.
Vermont	8 § 4089c (all plans) (1997)	Coverage for the equipment, supplies and outpatient self-management training and education.

COVERAGE FOR DIABETES EQUIPMENT, SUPPLIES, AND SELF-MANAGEMENT TRAINING AND EDUCATION IN OTHER STATES

STATE	CITATION AND DATE EFFECTIVE	SUMMARY
Washington	48.20.391 (individual) 48.21.143 (group) 49.44.315 (nonprofits) (1998)	If plan includes coverage for pharmacy services, must also cover medically necessary supplies and equipment for the treatment of diabetes. Coverage includes, but is not limited to: insulin, syringes, injection aides, blood glucose monitors, test strips for blood glucose monitors, visual reading and urine test strips, insulin pumps and accessories to the pumps, insulin infusion devices, prescriptive oral agents for controlling blood sugar levels, foot care appliances for prevention of complications associated with diabetes, and Glucagon emergency kits. Coverage also includes outpatient self-management training and education, as ordered by the health care provider.
West Virginia	33-15C-1 (individual) 33-16-16 (group) (1996)	Coverage for the equipment, supplies and self-management of diabetes. Coverage includes: blood glucose monitors, monitor supplies, insulin, injection aides, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, orthodics and additional items as promulgated by rule. Coverage for diabetes self-management training limited to medically necessary visits upon diagnosis of diabetes, visits following a significant change in the patient's symptoms or condition, periodic continuing education training when prescribed as warranted by the development of new techniques and treatments of diabetes.
Wisconsin	632.895.6 (1996)	Coverage for equipment, supplies, and self-management training. Coverage for insulin, insulin infusion pump, and all other equipment and supplies.