



Summary of Certain 2017 Virginia Insurance Law Amendments

The Virginia General Assembly has enacted amendments or additions to several portions of the Code of Virginia (the “Code”) relating to insurance that go into effect July 1, 2017 (except as otherwise indicated). The following is a brief summary of some of the amendments that may be of interest.

General Changes:

- ✓ **Refunds of Assessment Overpayment.** Senate Bill (“SB”) 994 amends §§ 38.2-403 and 38.2-4809.1 of the Code to allow the State Corporation Commission (the “Commission”) to refund overpayments back to insurers and surplus line brokers without a refund order. This change is in keeping with other refund provisions administered by the Bureau of Insurance.
- ✓ **Adoption of Revisions to the NAIC’s Credit for Reinsurance Model Law.** House Bill (“HB”) 1471 amends §§ 38.2-1316.1, 38.2-1316.2, 38.1-1316.4, and 38.2-1316.7 of the Code. These amendments authorize the Commission to adopt new regulations specifying additional requirements for (1) the valuation of assets or reserve credits, (2) the amount and form of security supporting reinsurance arrangements, and (3) the circumstances under which credit will be reduced or eliminated. The amendments also adjust the reinsurance collateral requirements for certified reinsurers.
- ✓ **New Corporate Governance Annual Disclosure.** HB2102 amends §§ 38.2-1005.1:7, 38.2-1339, 38.2-1342, 38.2-4319 and adds §§ 38.2-1334.11 through 38.2-1334.17 to the Code. These amended and additional provisions are applicable to all domestic insurers and set out the requirements for completing and filing the new Corporate Governance Annual Disclosure with the Commission. HB2101 further provides that submitted information will be treated confidentially and that the disclosures are due by June 1 of each calendar year. **Effective January 1, 2018.**
- ✓ **Exemption from Provision of Annual Privacy Notice.** HB2422 amends §38.2-604.1 of the Code to exempt insurers and insurance agents from having to provide policyholders an annual notice of financial information collection and disclosure practices when the insurer or agent only provides nonpublic financial information in accordance with §38.2-613 and has not changed its policies on these issues since the last notice sent to policyholders.

- ✓ **Licensing of Foreign Reciprocals.** SB1158 amends §§ 38.2-1024, 38.2-1027 and 38.2-1208 of the Code regarding the licensing of reciprocals. SB1158 allows a foreign reciprocal to become licensed in Virginia if it, or one of its affiliates, is already licensed to write the class of insurance the reciprocal wishes to write in Virginia—and actively writes such insurance—in its home state or at least two other states. SB1158 also adds reciprocals to the list of entities that may not provide insurance in Virginia without both a certificate of authority and a license to transact the business of insurance from the Commission.

Property and Casualty:

- ✓ **Change to the Definition of “Insurance” and Expansion of Automobile Club Services.** SB1074 amends §§ 38.2-100 and 38.2-514.1 of the Code to alter the definition of “insurance” and expand on the services that automobile clubs may provide. The alteration to the definition of insurance provides that a service agreement offered by an automobile club no longer constitutes “insurance”.
- ✓ **Change in Status of Home Service Contracts as Insurance.** HB1542 amends the Code (amends §§ 38.2-100, 38.2-2600 through 2605, 38.2-2613, 38.2-2615, 59.1-200 and 59.1-436; adds §§ 59.1-434.1 through 59.1-434.8; and repeals §§ 38.2-2617 through 38.2-2627) by removing home service contracts from the definition of “insurance” and shifting the responsibility for regulation of home service contract providers to the Department of Agriculture and Consumer Services. **Effective January 1, 2018.**

Life and Health:

- ✓ **Standard of Evidence for Proton Radiation Therapy.** HB1656 adds § 38.2-3407.14:1 to the Code, which prohibits health insurers from applying a more rigorous standard of clinical effectiveness when making coverage determinations for proton radiation therapy than they do for other types of radiation therapy. **Effective March 3, 2017.**
- ✓ **Benefit Information Sharing Between Life Insurers and Funeral Service Providers.** HB1835 adds § 38.2-3117.01 to the Code, which allows, but does not require, life insurers to share information about a deceased’s policy—such as the existence of a policy and the contact information of beneficiaries—with funeral service providers upon request. HB1835 also requires funeral service providers to make reasonable efforts to notify such beneficiaries (if the beneficiaries are individuals other than the deceased’s estate) about the content of the information received within four days of its receipt. HB1835 further requires funeral service providers to inform beneficiaries that they do not have any legal obligation to pay amounts associated with the provision of funeral services.
- ✓ **Calculation of Cost Sharing Obligation When There is No Amount Payable.** HB2037 amends §38.2-3407.3 of the Code and dictates that—when circumstances are such that

there is no amount actually paid or payable by a health insurer, health services plan or health maintenance organization to a medical service provider regarding covered services—the health insurer, health services plan or health maintenance organization must calculate the cost-sharing obligation of the insured, subscriber or enrollee based on a previously established allowed amount.

- ✓ **Relationships with Pharmaceutical Intermediaries.** HB1450 amends §§ 38.2-3407.7 and 38.2-4312.1 to now allow insurers (and their intermediaries) to directly contact pharmacies that have used intermediaries to provide notice regarding agreements to accept preferred provider reimbursement rates. Further HB1450 neither requires nor prohibits insurance carriers from contracting with a pharmaceutical intermediary and does not prohibit carriers from disclosing confidential information to such intermediaries.
- ✓ **Hormonal Contraceptives Coverage.** HB2267 amends § 2.2-2818.2 of the Code by adding § 38.2-3407.5:2. HB2267 requires health benefit plans that are amended, renewed or delivered on or after January 1, 2018 and that provide coverage for hormonal contraceptives to cover up to a 12-month supply of such contraceptives when such contraceptives are dispensed at one time. Further, HB2267 does not require health benefit plans to cover hormonal contraceptives or to dispense a 12-month's supply at one time and does not restrict the reasons hormonal contraceptives can be prescribed (ex., the treatment of menopause symptoms). **Effective January 1, 2018.**
- ✓ **Change in Definition of “Birth-Related Neurological Injury”.** HB2318 amends §38.2-5001 the Code by removing a provision of the definition of “birth-related neurological injury” that allows for retroactive application to any children born on or after January 1, 1988. **Effective January 1, 2018.**

Please note this is just a summary of certain legislative changes. It is not a complete list or interpretation of the insurance related legislative amendments in Virginia in 2017. If you have any questions or would like additional information, please contact Scott Sorkin or Richard Bland at ssorkin@blandsorkin.com or rbland@blandsorkin.com.