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SENATE BILL NO. 642

Offered January 14, 2026

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A BILL to amend and reenact §§ 38.2-3407.7, 38.2-4209.1, and 38.2-4312.1 of the Code of Virginia, relating to health insurance; pharmacies; freedom of choice; delivery of prescription drugs.

Patrons—Pillion and Locke

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-3407.7, 38.2-4209.1, and 38.2-4312.1 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-3407.7. Pharmacies; freedom of choice.

A. Notwithstanding any provision of § 38.2-3407 to the contrary, no insurer or its pharmacy benefits manager, as defined in § 38.2-3465, proposing to issue either preferred provider policies or contracts or exclusive provider policies or contracts shall prohibit any person receiving pharmacy benefits, including specialty pharmacy benefits, furnished thereunder from selecting, without limitation, the pharmacy, as defined in § 54.1-3300 and including any physician practice, hospital outpatient infusion center, or other clinical setting that dispenses or administers drugs, medicines, or medicinal chemicals, of his choice to furnish such benefits. This right of selection extends to and includes any pharmacy that is a nonpreferred or nonparticipating provider and that has previously notified the insurer on its own behalf or through an intermediary, by facsimile or otherwise, of its agreement to accept reimbursement for its services at rates applicable to pharmacies that are preferred or participating providers, including any copayment consistently imposed by the insurer, as payment in full. Each insurer or its pharmacy benefits manager shall permit prompt electronic or telephonic transmittal of the reimbursement agreement by the pharmacy and ensure prompt verification to the pharmacy of the terms of reimbursement. In no event shall any person receiving a covered pharmacy benefit from a nonpreferred or nonparticipating provider that has submitted a reimbursement agreement be responsible for amounts that may be charged by the nonpreferred or nonparticipating provider in excess of the copayment and the insurer's reimbursement applicable to all of its preferred or participating pharmacy providers. If a pharmacy has provided notice pursuant to this subsection through an intermediary, the insurer or its intermediary may elect to respond directly to the pharmacy instead of the intermediary. Nothing in this subsection shall (i) require an insurer or its intermediary to contract with or to disclose confidential information to a pharmacy's intermediary or (ii) prohibit an insurer or its intermediary from contracting with or disclosing confidential information to a pharmacy's intermediary.

B. No such insurer or its pharmacy benefits manager shall impose upon any person receiving pharmaceutical benefits furnished under any such policy or contract:

1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category, class or copayment level, whether or not such benefits are furnished by pharmacists who are nonpreferred or nonparticipating providers;

2. Any monetary penalty that would affect or influence any such person's choice of pharmacy; or

3. Any reduction in allowable reimbursement for pharmacy services related to utilization of pharmacists who are nonpreferred or nonparticipating providers; or

4. Any policy or practice requiring or incentivizing a prescription drug or device to be sent (i) directly to a health care provider for administration to a patient, (ii) to a specific pharmacy selected by such insurer or pharmacy benefits manager, or (iii) to the residence of such person. No insurer, health maintenance organization, or pharmacy benefits manager shall penalize, terminate, or otherwise retaliate against a pharmacy or dispensing practitioner for exercising rights or providing services consistent with this section.

C. For purposes of this section, a prohibited condition or penalty shall include, without limitation: (i) denying immediate access to electronic claims filing to a pharmacy that is a nonpreferred or nonparticipating provider and that has complied with subsection D or (ii) requiring a person receiving pharmacy benefits to make payment at point of service, except to the extent such conditions and penalties are similarly imposed on preferred or participating providers.

D. Any pharmacy that wishes to be covered by this section shall, if requested to do so in writing by an insurer or its pharmacy benefits manager, within 30 days of the pharmacy's receipt of the request, execute and deliver to the insurer or its pharmacy benefits manager the direct service agreement or preferred or participating provider agreement that the insurer requires all of its preferred or participating providers of pharmacy benefits to execute. Any pharmacy that fails to timely execute and deliver such agreement shall not be covered by this section with respect to that insurer or its pharmacy benefits manager unless and until the

59 pharmacy executes and delivers the agreement. No pharmacy shall be precluded from obtaining a direct
 60 service agreement or participating provider agreement for retail and specialty pharmacy if the pharmacy
 61 meets the terms and conditions of participation. Any request by a pharmacy for a direct service agreement or
 62 a participating provider agreement shall be acted upon by an insurer or its pharmacy benefits manager within
 63 60 days of receipt of the pharmacy's request or any subsequent submission of supplemental information if
 64 requested by the insurer or its pharmacy benefits manager.

65 E. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

66 F. Nothing in this section shall limit the authority of an insurer proposing to issue preferred provider
 67 policies or contracts or exclusive provider policies or contracts to select a single mail order pharmacy
 68 provider as the exclusive provider of pharmacy services that are delivered to the covered person's address by
 69 mail, common carrier, or delivery service. The provisions of this section shall not apply to such contracts. As
 70 used in this subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct business in
 71 the Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive
 72 drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery
 73 service.

74 **§ 38.2-4209.1. Pharmacies; freedom of choice.**

75 A. Notwithstanding any provision of § 38.2-4209, no corporation providing preferred provider
 76 subscription contracts or its pharmacy benefits manager, as defined in § 38.2-3465, shall prohibit any person
 77 receiving pharmaceutical benefits, including specialty pharmacy benefits, thereunder from selecting, without
 78 limitation, the pharmacy, *as defined in § 54.1-3300 and including any physician practice, hospital outpatient*
 79 *infusion center, or other clinical setting that dispenses or administers drugs, medicines, or medicinal*
 80 *chemicals*, of his choice to furnish such benefits. This right of selection extends to and includes pharmacies
 81 that are nonpreferred providers and that have previously notified the corporation or its pharmacy benefits
 82 manager, by facsimile or otherwise, of their agreement to accept reimbursement for their services at rates
 83 applicable to pharmacies that are preferred providers, including any copayment consistently imposed by the
 84 corporation, as payment in full. Each corporation or its pharmacy benefits manager shall permit prompt
 85 electronic or telephonic transmittal of the reimbursement agreement by the pharmacy and ensure payment
 86 verification to the pharmacy of the terms of reimbursement. In no event shall any person receiving a covered
 87 pharmacy benefit from a nonpreferred provider that has submitted a reimbursement agreement be responsible
 88 for amounts that may be charged by the nonpreferred provider in excess of the copayment and the
 89 corporation's reimbursement applicable to all of its preferred pharmacy providers.

90 B. No such corporation or its pharmacy benefits manager shall impose upon any person receiving
 91 pharmaceutical benefits furnished under any such contract:

92 1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit
 93 category, class or copayment level, whether or not such benefits are furnished by pharmacists who are
 94 nonpreferred providers;

95 2. Any monetary penalty that would affect or influence any such person's choice of pharmacy; ~~or~~

96 3. Any reduction in allowable reimbursement for pharmacy services related to utilization of pharmacists
 97 who are nonpreferred providers; *or*

98 4. *Any policy or practice requiring or incentivizing a prescription drug or device to be sent (i) directly to*
 99 *a health care provider for administration to a patient, (ii) to a specific pharmacy selected by such insurer or*
 100 *pharmacy benefits manager, or (iii) to the residence of such person. No insurer, health maintenance*
 101 *organization, or pharmacy benefits manager shall penalize, terminate, or otherwise retaliate against a*
 102 *pharmacy or dispensing practitioner for exercising rights or providing services consistent with this section.*

103 C. For purposes of this section, a prohibited condition or penalty shall include, without limitation: (i)
 104 denying immediate access to electronic claims filing to a pharmacy that is a nonpreferred provider and that
 105 has complied with subsection D or (ii) requiring a person receiving pharmacy benefits to make payment at
 106 point of service, except to the extent such conditions and penalties are similarly imposed on preferred
 107 providers.

108 D. Any pharmacy that wishes to be covered by this section shall, if requested to do so in writing by a
 109 corporation or its pharmacy benefits manager, within 30 days of the pharmacy's receipt of the request,
 110 execute and deliver to the corporation or its pharmacy benefits manager the direct service agreement or
 111 preferred provider agreement that the corporation requires all of its preferred providers of pharmacy benefits
 112 to execute. Any pharmacy that fails to timely execute and deliver such agreement shall not be covered by this
 113 section with respect to that corporation or its pharmacy benefits manager unless and until the pharmacy
 114 executes and delivers the agreement. No pharmacy shall be precluded from obtaining a direct service
 115 agreement or participating provider agreement for any retail and specialty pharmacy if the pharmacy meets
 116 the terms and conditions of participation. Any request by a pharmacy for a direct service agreement or a
 117 participating provider agreement shall be acted upon by a corporation or its pharmacy benefits manager
 118 within 60 days of receipt of the pharmacy's request or any subsequent submission of supplemental
 119 information if requested by the corporation or its pharmacy benefits manager.

120 E. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

121 F. Nothing in this section shall limit the authority of a corporation issuing preferred provider policies or
 122 contracts to select a single mail order pharmacy provider as the exclusive provider of pharmacy services that
 123 are delivered to the covered person's address by mail, common carrier, or delivery service. The provisions of
 124 this section shall not apply to such contracts. As used in this subsection, "mail order pharmacy provider"
 125 means a pharmacy permitted to conduct business in the Commonwealth whose primary business is to
 126 dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or device to a
 127 patient primarily by mail, common carrier, or delivery service.

128 **§ 38.2-4312.1. Pharmacies; freedom of choice.**

129 A. Notwithstanding any other provision in this chapter, no health maintenance organization providing
 130 health care plans, or its pharmacy benefits manager, as defined in § 38.2-3465, shall prohibit any person
 131 receiving pharmaceutical benefits, including specialty pharmacy benefits, thereunder from selecting, without
 132 limitation, the pharmacy, *as defined in § 54.1-3300 and including any physician practice, hospital outpatient*
 133 *infusion center, or other clinical setting that dispenses or administers drugs, medicines, or medicinal*
 134 *chemicals*, of his choice to furnish such benefits. This right of selection extends to and includes any pharmacy
 135 that is not a participating provider under any such health care plan and that has previously notified the health
 136 maintenance organization or its pharmacy benefits manager on its own behalf or through an intermediary, by
 137 facsimile or otherwise, of its agreement to accept reimbursement for its services at rates applicable to
 138 pharmacies that are participating providers, including any copayment consistently imposed by the plan, as
 139 payment in full. Each health maintenance organization or its pharmacy benefits manager shall permit prompt
 140 electronic or telephonic transmittal of the reimbursement agreement by the pharmacy and ensure prompt
 141 verification to the pharmacy of the terms of reimbursement. In no event shall any person receiving a covered
 142 pharmacy benefit from a nonparticipating provider that has submitted a reimbursement agreement be
 143 responsible for amounts that may be charged by the nonparticipating provider in excess of the copayment and
 144 the health maintenance organization's reimbursement applicable to all of its participating pharmacy providers.
 145 If a pharmacy has provided notice pursuant to this subsection through an intermediary, the health
 146 maintenance organization or its intermediary may elect to respond directly to the pharmacy instead of the
 147 intermediary. Nothing in this subsection shall (i) require a health maintenance organization or its
 148 intermediary to contract with or to disclose confidential information to a pharmacy's intermediary or (ii)
 149 prohibit a health maintenance organization or its intermediary from contracting with or disclosing
 150 confidential information to a pharmacy's intermediary.

151 B. No such health maintenance organization or its pharmacy benefits manager shall impose upon any
 152 person receiving pharmaceutical benefits furnished under any such health care plan:

153 1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit
 154 category, class or copayment level, whether or not such benefits are furnished by pharmacists who are not
 155 participating providers;

156 2. Any monetary penalty that would affect or influence any such person's choice of pharmacy; ~~or~~

157 3. Any reduction in allowable reimbursement for pharmacy services related to utilization of pharmacists
 158 who are not participating providers; *or*

159 4. *Any policy or practice requiring or incentivizing a prescription drug or device to be sent (i) directly to*
 160 *a health care provider for administration to a patient, (ii) to a specific pharmacy selected by such insurer or*
 161 *pharmacy benefits manager, or (iii) to the residence of such person. No insurer, health maintenance*
 162 *organization, or pharmacy benefits manager shall penalize, terminate, or otherwise retaliate against a*
 163 *pharmacy or dispensing practitioner for exercising rights or providing services consistent with this section.*

164 C. For purposes of this section, a prohibited condition or penalty shall include, without limitation: (i)
 165 denying immediate access to electronic claims filing to a pharmacy that is a nonparticipating provider and
 166 that has complied with subsection E or (ii) requiring a person receiving pharmacy benefits to make payment
 167 at point of service, except to the extent such conditions and penalties are similarly imposed on participating
 168 providers.

169 D. The provisions of this section are not applicable to any pharmaceutical benefit covered by a health care
 170 plan when those benefits are obtained from a pharmacy wholly owned and operated by, or exclusively
 171 operated for, the health maintenance organization providing the health care plan.

172 E. Any pharmacy that wishes to be covered by this section shall, if requested to do so in writing by a
 173 health maintenance organization or its pharmacy benefits manager, within 30 days of the pharmacy's receipt
 174 of the request, execute and deliver to the health maintenance organization or its pharmacy benefits manager,
 175 the direct service agreement or participating provider agreement that the health maintenance organization or
 176 its pharmacy benefits manager requires all of its participating providers of pharmacy benefits to execute. Any
 177 pharmacy that fails to timely execute and deliver such agreement shall not be covered by this section with
 178 respect to that health maintenance organization or its pharmacy benefits manager unless and until the
 179 pharmacy executes and delivers the agreement. No pharmacy shall be precluded from obtaining a direct
 180 service agreement or participating provider agreement for retail and specialty pharmacy if the pharmacy
 181 meets the terms and conditions of participation. Any request by a pharmacy for a direct service agreement or
 182 a participating provider agreement shall be acted upon by a health maintenance organization or its pharmacy

183 benefits manager within 60 days of receipt of the pharmacy's request or any subsequent submission of
184 supplemental information if requested by the health maintenance organization or its pharmacy benefits
185 manager.

186 F. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

187 G. Nothing in this section shall limit the authority of a health maintenance organization providing health
188 care plans to select a single mail order pharmacy provider as the exclusive provider of pharmacy services that
189 are delivered to the covered person's address by mail, common carrier, or delivery service. The provisions of
190 this section shall not apply to such contracts. As used in this subsection, "mail order pharmacy provider"
191 means a pharmacy permitted to conduct business in the Commonwealth whose primary business is to
192 dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or device to a
193 patient primarily by mail, common carrier, or delivery service.