# Commonwealth of Virginia

COMMISSIONER OF INSURANCE

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**STATE CORPORATION COMMISSION**
**BUREAU OF INSURANCE**

**August 9, 1996**

**Administrative Letter 1996-13**

**TO: ALL INSURERS AUTHORIZED TO WRITE ACCIDENT AND SICKNESS INSURANCE IN VIRGINIA, AND ALL HEALTH SERVICES PLANS AND HEALTH MAINTENANCE ORGANIZATIONS LICENSED IN VIRGINIA**

**RE: 1996 House Bill 442 - § 38.2-3407.11 of the Code of Virginia, as amended "Direct Access" to obstetricians and. gynecologists**

**It has come to our attention that a number of insurers are having difficulty with implementation of the above-referenced statute enacted by the 1996 Virginia General Assembly. In order to assist insurers in their efforts to comply with the new law, which took effect on July 1, 1996, the Bureau of Insurance is providing in this Administrative Letter some general guidelines and interpretations that we suggest be followed.**

1. **The new law applies to any of the following plans where coverage for obstetrical or gynecological services is provided:**

   - **individual or group accident and sickness insurance policies issued by insurers and providing hospital, medical and surgical or major medical coverage on an expense-incurred basis;**

   - **individual or group subscription contracts provided by health services plans; and**

   - **health care plans for health care services issued by health maintenance organizations.**

***For purposes of the remainder of this Administrative Letter, we shall use the term "insurer" to refer to all of the above entities.***

**2. The law applies to all contracts, plans, policies, etc. that are:**

- **delivered, issued for delivery, reissued, renewed, or extended on or after July 1, 1996; or at any time thereafter that any term of any such policy, contract, or plan is changed or any premium adjustment is made.**

***Some insurers have chosen to implement the new requirements across the board effective July 1, 1996, instead of "rolling them in, " and this is, of course, perfectly acceptable.***

**3. The law does NOT apply to:**

**• short-term travel policies;**

**• accident only policies; and**

**• short-term nonrenewable policies of not more than six months' duration.**

**4. The new law requires affected insurers to provide direct access to the services of an obstetrician-gynecologist to any covered female of age 13 or older.**

**The obstetrician-gynecologist must be:**

* **a participating provider;**
* **authorized to provide services under the policy, contract, or plan; and**
* **selected by the covered female.**

**The services must include:**

> **... the full scope of medically necessary services provided by the obstetrician-gynecologist in the care of or related to the female reproductive system and breasts and in performing annual screening and immunization for disorders and diseases in accordance with the most current published recommendations of the American College of Obstetricians and Gynecologists. [Also included are] services provided by nurse practitioners, physician's assistants, and certified nurse midwives in collaboration with the obstetrician-gynecologists providing .care to individuals covered under any such policies, contracts or plans. (§ 38.2-3407.1 1.C)**

## Direct access includes, WITHOUT A REFERRAL OR PRIOR AUTHORIZATION FROM THE PRIMARY CARE PHYSICIAN:

- An annual examination and routine health care services incident to and rendered during an annual visit.

  ***Some insurers are apparently taking the position that "annual" means no more often than after an interval of 12 months. The Bureau believes that "annual" in this context means that a covered female may receive an examination once during each contract year. The statute does not appear to require an interval of 12 months between examinations.***

- Follow-up care and subsequent visits, except that the insurer may require that the obstetrician-gynecologist consult with the primary care physician regarding such visits.

***The statute is clear that such consultation may be by telephone, and the statute does not appear to require that such consultation occur prior to thefollow-up care or subsequent visits.***

## 5. Additional health care services not discussed above may be rendered to the covered female by the obstetrician-gynecologist, subject to the following requirements:

- Before an obstetrician-gynecologist may refer. the covered female to another specialty provider, the insurer may require prior consultation with and authorization by the primary care physician, including a visit to the primary care physiciah, if determined necessary by the primary care physician.

- The insurer may, require prior authorization for any inpatient hospitalization or outpatient surgical procedure involving the covered female and recommended by the obstetrician-gynecologist.

## 6. NOTIFICATION TO PRIMARY CARE PHYSICIAN - The law makes specific provision to allow the insurer to require the participating obstetrician gynecologist to provide written notification to the covered female's primary care physician of any visit to such obstetrician-gynecologist, including a description of the health care services rendered at the time of the visit.

***This is not the same as pre-authorization or referral It is simply for the purpose o ensuring that the primary care physician is kept apprised of and has a complete record of all relevant medical information pertaining to his or her patient.***

7. **NOTIFICATION TO INSUREDS** - The law specifies that the insurer must inform Subscribers" IN WRITING of the provisions of the new law.

The Bureau believes the meaning of the term "subscribers" to be the "insured" under an individual contract or the primary "covered person" under a certificate issued under a group contract. It is also our interpretation that a separate written notice be provided, rather than that the notice requirement can be filled simply by revision of contract forms or benefit booklets. Any such separate notice (unless it is to become part of the contract) need NOT be filed with us. Compliance with this requirement will be determined through consumer complaints and market conduct ecaminations.

Those insurers which have previously provided information to participating health care providers or insureds that is not consistent with the above are instructed to send corrected material to all affected parties immediately.

Questions regarding the content of this letter should be addressed, in writing, to the attention of:

Jacqueline K. Cunningham
Supervisor, Life and Health Forms & Rates Section
Bureau of Insurance
Box 1157
Richmond, VA 23218

Sincerely,

Alfred W. Gross
Commissioner of Insurance

AWG/gm