



## Mental Health Coverage Overview of State Law and Federal Mental Health Parity Act

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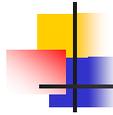
State Corporation Commission  
Bureau of Insurance



### Virginia Laws

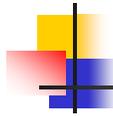
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- § 38.2-3412.1 **mandates** coverage for mental health and substance abuse services, but allows certain coverage limitations, i.e. 20 days inpatient coverage per contract year (25 days for children); 20 outpatient visits per contract year.
- Applies to all fully insured health insurance products issued to individuals, small groups and large groups. Does not apply to “biologically based mental illnesses” as defined in § 38.2-3412.1:01.



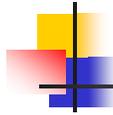
## Virginia Laws

- § 38.2-3412.1:01– requires coverage for “biologically based” mental illnesses **on parity with physical illnesses**.
- Biologically based mental illnesses include schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive compulsive disorder, attention deficit hyperactivity disorder, autism, and drug and alcohol addiction
- Applies only to fully insured group products issued to large groups.



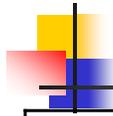
## Federal Mental Health Parity

- On October 3, 2008, President Bush signed the Emergency Economic Stabilization Act.
- Includes the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA).
- Effective for plan years beginning after October 3, 2009.
- Applies to **large employer groups only** (51 or more employees)



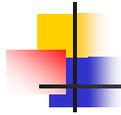
## Federal Mental Health Parity

- Does not mandate mental health or substance abuse coverage, but requires that *if* such coverage is provided, coverage must be on parity with coverage for physical illnesses, including:
  - Deductibles, copays and out-of-pocket maximums;
  - Treatment limitations, (frequency of treatment, number of visits, etc.);
- Allows for an “opt-out” by employers if their costs to provide coverage increase by 2% in the first year and 1% in subsequent years – exemption is only for one plan year.



## General Comparison of Federal Mental Health Parity Act with Virginia mandates

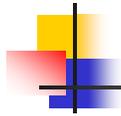
§ 38.2-3412.1 Mandate of Coverage for Mental Health and Substance Abuse Services	§ 38.2-3412.1:01 Coverage of Biologically Based Mental Illnesses	Mental Health Parity and Addiction Equity Act of 2008
Applies to individual, small group and large group	Applies to large group (group size in statute is incorrect)	Applies to large (51 and more) employer groups
Mandates mental health and substance abuse coverage, but allows certain benefit limitations	Mandates coverage for biologically based mental illness on parity with physical illness, including deductibles, benefit year or lifetime durational limits, dollar limits, treatment limits, copay and coinsurance factors	<b>Does not</b> mandate mental health or substance abuse coverage, but if coverage is provided, it may not be more restrictive than physical illness; separate financial requirements are not allowed.



## Implications of Federal Law

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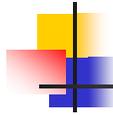
- Virginia law may conflict with federal law, and therefore may be preempted.
- Proactive approach is suggested over preemption challenge.
- Reconciliation of state and federal laws requires policy decisions.



## Possible Solutions and Policy Issues

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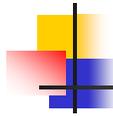
- Amend VA mental health mandate to require parity with physical illness.
  - Removes benefit limitations to conform with federal law.
  - Could apply to all policies, or just large groups.



## Possible Solutions and Policy Issues

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- Amend VA mental health mandate to mandated offer.
  - May apply to just large groups, or to all.
  - If offer is accepted, large groups must still comply with the parity requirements.
  - If applied to large groups only, creates a big difference in coverage requirements between group types.

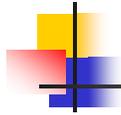


## Possible Solutions and Policy Issues

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- Do Nothing.
  - The MHPAEA amends HIPAA. VA currently complies with and enforces HIPAA requirements. If VA does not act (and is out of compliance with HIPAA) or if preempted, VA loses its ability to:
    - Review, approve or disapprove forms
    - Review market conduct actions
    - Assist consumers with HIPAA related issues

Enforcement in these areas will be left to the federal government (CMS).



## Questions?

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- The Bureau of Insurance is available to answer questions about the state and federal requirements, and to offer technical assistance with bill drafting should legislators decide to propose changes to Virginia law.

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