

## State Corporation Commission 2004 Fiscal Impact Statement

**1. Bill Number** HB1416

<b>House of Origin</b>	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron** Nutter

**3. Committee** Commerce and Labor

**4. Title** Insurance; pharmacies; freedom of choice.

**5. Summary/Purpose:** Adds to prohibited actions by insurers, the imposing of any condition or communication that would influence a choice of pharmacy including actions designed or intended to divert a person to a mail order pharmacy owned by the insurer, its affiliate or affiliate's pharmacy benefit manager (PBM), under circumstances described in subsection D4 of the bill. The bill also adds provisions that prohibit an insurer or PBM from imposing on, or requiring a pharmacy (i) any term or condition not required, of all pharmacies in Virginia, whether the benefits are furnished by non-preferred providers; or (ii) payment, compensation or reimbursement structure that does or tends to result in discrimination, direct or indirect, that can lessen competition or tend to create a monopoly. The bill also prohibits (i) directly or indirectly paying or accepting incentives between or among the insurer, insurer's PBM, or a pharmacy that would violate state or federal law or requiring or (ii) inducing a person to use a mail order pharmacy for maintenance medications for over 1 month, unless the pharmacy the person selects has not agreed to accept the same rates, terms, conditions and co-payments that are applicable to mail order pharmacies that have contracts with the insurer or PBM. The bill does not prohibit an insurer or its PBM from establishing a different reimbursement structure for maintenance medications that does not violate the section or state or federal law. The bill amends subsection E § 38.2-3407.7 to make the section apply to a pharmacy that wishes to provide pharmaceutical benefits under the section.

**6. Fiscal Impact Estimates** are unavailable (see Line 8)

**7. Budget amendment necessary:** No

**8. Fiscal implications:** As a result of House Bill 1416, insurers would be required to re-file forms with the State Corporation Commission Bureau of Insurance and enter into additional provider contracts with community pharmacies. As to the impact on community pharmacies, pharmacy benefit managers and mail-order pharmacies, the Bureau would assume that all three entities would be impacted by the enactment of this legislation, but has no way to assess the impact of this legislation on their businesses.

**9. Specific agency or political subdivisions affected:** State Corporation Commission Bureau of Insurance

**10. Technical amendment necessary:** No

**11. Other comments:** On February 10, 2004, the bill was continued to the 2005 Session.

**Date:** 02/18/04 / V.Tompkins

cc: Secretary of Commerce and Trade