

# State Corporation Commission

## 2020 Fiscal Impact Statement

**1. Bill Number:** HB1290

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Hodges

**3. Committee:** Labor and Commerce

**4. Title:** Pharmacy benefits managers; licensure and regulation.

**5. Summary:** Provides that, beginning January 1, 2021, no person is authorized to provide pharmacy benefits management services or otherwise act as a pharmacy benefits manager without first obtaining a license from the State Corporation Commission. Such licenses are to be renewed every three years. The bill authorizes the Commission, in its discretion, to issue a pharmacy benefits license subject to restrictions or limitations, including restrictions and limitations on the type of services that may be supplied or the activities in which the pharmacy benefits manager may engage. The bill provides that the Commission may suspend, revoke, or place on probation a pharmacy benefits manager license if (i) the pharmacy benefits manager has engaged in fraudulent activity that constitutes a violation of state or federal law, (ii) the Commission has received consumer complaints that justify such an action to protect the safety or interests of consumers, (iii) the pharmacy benefits manager fails to pay any required licensure or renewal fee, or (iv) the pharmacy benefits manager fails to comply with the provisions of this article, Commission regulations, or other applicable law. The bill also imposes recordkeeping and reporting requirements and provides that information or data acquired therefrom is considered proprietary and confidential and is not subject to the Virginia Freedom of Information Act.

**6. Budget Amendment Necessary:** No

**7. Fiscal Impact Estimates:** No fiscal impact on the State Corporation Commission

**8. Fiscal Implications:** None on the State Corporation Commission

**9. Specific Agency or Political Subdivisions Affected:** State Corporation Commission Bureau of Insurance

**10. Technical Amendment Necessary:** The State Corporation Commission Bureau of Insurance offers the following technical comments on House Bill 1290:

1. On Lines 82, 86, 87 and 90, the word "Commissioner" should be stricken and the word "Commission" should be inserted.
2. On Line 86, after "assistants." the Bureau suggests striking the next sentence since the Commission currently has the authority to address carriers' violations of Title 38.2 in Chapter 2.
3. The Bureau also suggests that beginning on Line 192 after "C." strike all of Lines 100-102 and insert the following:

All working papers, documents, reports, and copies thereof, produced by, obtained by or disclosed to the Commission or any other person in the course of an examination made under this article and any analysis of such information or documents shall be given confidential treatment, are not subject to subpoena, and may not be made public by the Commission or any other person. Access may also be granted to (i) a regulatory official of any state or country; (ii) the NAIC, its affiliate or its subsidiary; or (iii) a law-enforcement authority of any state or country, provided that those officials are required under their law to maintain its confidentiality. Any such disclosure by the Commission shall not constitute a waiver of confidentiality of such papers, documents, reports or copies thereof. Any parties receiving such papers must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section.

4. In order to make the provisions of House Bill 1290 applicable to health services plans and health maintenance organizations, the provisions of Article 9 should be added to §§ 38.2-4214 and 38.2-4319.

**11. Other Comments:** There are several bills dealing with pharmacy benefit managers, including House Bill 1291, House Bill 1292, House Bill 1459, House Bill 1479, Senate Bill 251, Senate Bill 252 and Senate Bill 862. House Bill 1290 is assigned to Subcommittee #2 of the Labor and Commerce Committee.

**Date:** 1/22/2020/V. Tompkins