

State Corporation Commission

2020 Fiscal Impact Statement

1. Bill Number: SB251

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

2. Patron: Edwards

3. Committee: Commerce and Labor

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 annually. 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 recommends the following technical amendments to Senate Bill 251:

- On Line 88, the State Corporation Commission Bureau of Insurance recommends striking the language which begins after “B.” and inserting 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.

- On Line 76, strike “Commissioner” and insert “Commission”

11. Other Comments: In order to make the provisions of Senate Bill 251 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.

The United States Supreme Court has accepted certiorari in the case of Rutledge v. Pharmaceutical Care Management Association. The case involves the extent of the ERISA (Employee Retirement Security Act of 1974) preemption as it relates to PBMs.

There are several pharmacy benefit manager (PBM) regulation bills, including Senate Bill 252, also from Senator Edwards, and Senate Bill 862. House Bill 1290 is another PBM regulation bill, and there are two additional bills which deal with PBMs, House 1291 and House Bill 1292. All three Senate bills are assigned to the Health Subcommittee of Senate Commerce and Labor.

Date: 1/16/20/V.Tompkins