

MAINE STATE LEGISLATURE

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MINORITY

L.D. 1504

Date: 6/10/19

(Filing No. S-254)

HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "B" to S.P. 466, L.D. 1504, Bill, "An Act To Protect Consumers from Unfair Practices Related to Pharmacy Benefits Management"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 22 MRSA §1711-E, sub-§1, ¶G, as amended by PL 2011, c. 443, §1, is further amended to read:

G. "Pharmacy benefits manager" has the same meaning as in Title 24-A, section ~~1913~~ 1913-A, subsection 1, ~~paragraph A.~~

Sec. 2. 22 MRSA §8702, sub-§8-B, as amended by PL 2011, c. 443, §3, is further amended to read:

8-B. Pharmacy benefits manager. "Pharmacy benefits manager" has the same meaning as in Title 24-A, section ~~1913~~ 1913-A, subsection 1, ~~paragraph A.~~

Sec. 3. 24-A MRSA §601, sub-§28, as enacted by PL 2009, c. 581, §3, is repealed.

Sec. 4. 24-A MRSA §601, sub-§28-A is enacted to read:

28-A: Pharmacy benefits manager. Pharmacy benefits manager licensing fees may not exceed:

A. Original issuance fee, \$100; and

B. Renewal fee, \$100.

Sec. 5. 24-A MRSA §1913, as repealed and replaced by PL 2011, c. 443, §4, is repealed.

Sec. 6. 24-A MRSA §1913-A is enacted to read:

COMMITTEE AMENDMENT

1 **§1913-A. Licensure of pharmacy benefits managers**

2 **1. Definition; pharmacy benefits manager.** As used in this section, "pharmacy
3 benefits manager" means a person, business or other entity that, pursuant to a contract or
4 under an employment relationship with a carrier, a self-insurance plan or other 3rd-party
5 payer, either directly or through an intermediary, manages the prescription drug coverage
6 provided by the carrier, self-insurance plan or other 3rd-party payer, including, but not
7 limited to, processing and paying claims for prescription drugs, performing drug
8 utilization review, processing drug prior authorization requests, adjudicating appeals or
9 grievances related to prescription drug coverage, contracting with network pharmacies
10 and controlling the cost of covered prescription drugs.

11 **2. License required.** Beginning January 1, 2020, a person may not act as a
12 pharmacy benefits manager in this State without first obtaining a license from the
13 superintendent in accordance with this section and paying the licensing fee required under
14 section 601, subsection 28-A.

15 **3. Applicant information.** An applicant for licensure as a pharmacy benefits
16 manager must file with the superintendent at least the following information:

17 A. The name of the applicant;

18 B. The address and telephone number of the applicant;

19 C. The name and address of the applicant's agent for service of process in the State;

20 D. The name and address of each person beneficially interested in the applicant; and

21 E. The name and address of each person with management or control over the
22 applicant.

23 **4. Qualification.** The superintendent may issue a pharmacy benefits manager
24 license to an applicant only if the superintendent is satisfied that the applicant possesses
25 the necessary organization, expertise and financial integrity to supply the services sought
26 to be offered.

27 **5. Restrictions permitted.** The superintendent may issue a pharmacy benefits
28 manager license subject to restrictions or limitations, including the type of services that
29 may be supplied or the activities in which the pharmacy benefits manager may engage.

30 **6. Valid for 3 years.** A license issued pursuant to this section is valid for a period of
31 3 years and must be renewed.

32 **7. Nontransferable.** A license issued pursuant to this section is not transferable.

33 **8. Suspension, revocation or probationary license.** The superintendent may
34 suspend, revoke or place on probation a pharmacy benefits manager license under any of
35 the following circumstances:

36 A. The pharmacy benefits manager has engaged in fraudulent activity that constitutes
37 a violation of state or federal law;

38 B. The superintendent has received consumer complaints that justify an action under
39 this subsection to protect the safety and interests of consumers;

- 1 C. The pharmacy benefits manager fails to pay the original issuance or renewal fee
2 for the license; or
- 3 D. The pharmacy benefits manager fails to comply with a requirement set forth in
4 this section.
- 5 9. Penalty for failure to obtain license. If a pharmacy benefits manager acts
6 without obtaining a license pursuant to this section, the pharmacy benefits manager is
7 subject to a fine of \$5,000 per day for the period the pharmacy benefits manager is found
8 to be in violation.
- 9 10. Rules. The superintendent may adopt routine technical rules pursuant to Title 5,
10 chapter 375, subchapter 2-A to administer and enforce the requirements of this section.
- 11 11. Enforcement. The superintendent may enforce this section under sections 220
12 and 223 and other provisions of this Title.
- 13 12. Registration remains effective until January 1, 2020 or registration date.
14 The registration of a pharmacy benefits manager issued during 2019 in accordance with
15 former section 1913 remains valid until January 1, 2020 or the next yearly anniversary of
16 the registration date, whichever is later. Upon expiration of that registration, the
17 pharmacy benefits manager shall obtain a license under this section in order to do
18 business in this State.'

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SUMMARY

This amendment is the minority report of the committee and replaces the bill. The amendment repeals the current registration requirement for pharmacy benefits managers and replaces it with a licensing requirement.

FISCAL NOTE REQUIRED
(See Attached)

COMMITTEE AMENDMENT



129th MAINE LEGISLATURE

LD 1504

LR 382(03)

An Act To Protect Consumers from Unfair Practices Related to Pharmacy Benefits Management

Fiscal Note for Bill as Amended by Committee Amendment ^{B" (S-254)}
Committee: Health Coverage, Insurance and Financial Services

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Minor revenue increase - General Fund

Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional fine revenue will increase General Fund and dedicated revenue by minor amounts.