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By: **Delegates Goldwater and Bromwell**

Introduced and read first time: February 5, 2003

Assigned to: Health and Government Operations

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Committee Report: Favorable

House action: Adopted

Read second time: March 11, 2003

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CHAPTER 295

1 AN ACT concerning

2 **Health Insurance - Private Review Agents - Examination of Pharmacy**  
3 **Benefit Managers**

4 FOR the purpose of requiring the Insurance Commissioner to conduct an examination  
5 of certain pharmacy benefit managers; requiring the examination be conducted  
6 in accordance with certain provisions of law and at a certain frequency;  
7 requiring that the expense of the examination be paid in a certain manner;  
8 requiring that a certain report be issued in a certain manner; requiring the  
9 Commissioner to submit a copy of a certain report to certain committees of the  
10 General Assembly on a certain date; and generally relating to the examination  
11 of pharmacy benefit managers.

12 BY repealing and reenacting, with amendments,  
13 Article - Insurance  
14 Section 2-208 and 2-209  
15 Annotated Code of Maryland  
16 (1997 Volume and 2002 Supplement)

17 BY adding to  
18 Article - Insurance  
19 Section 15-10B-20  
20 Annotated Code of Maryland  
21 (2002 Replacement Volume and 2002 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
23 MARYLAND, That the Laws of Maryland read as follows:

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**Article - Insurance**

2 2-208.

3 The expense incurred in an examination made under § 2-205 of this subtitle, §  
4 2-206 of this subtitle for surplus lines brokers and insurance holding corporations, §  
5 23-207 of this article for premium finance companies, [or] § 15-10B-19 of this article  
6 for private review agents, OR § 15-10B-20 OF THIS ARTICLE shall be paid by the person  
7 examined in the following manner:

8 (1) the person examined shall pay to the Commissioner the travel  
9 expenses, a living expense allowance, and a per diem as compensation for examiners,  
10 actuaries, and typists:

11 (i) to the extent incurred for the examination; and

12 (ii) at reasonable rates set by the Commissioner;

13 (2) the Commissioner may present a detailed account of expenses  
14 incurred to the person examined periodically during the examination or at the end of  
15 the examination, as the Commissioner considers proper; and

16 (3) a person may not pay and an examiner may not accept any  
17 compensation for an examination in addition to the compensation under paragraph  
18 (1) of this section.

19 2-209.

20 (a) The Commissioner or an examiner shall make a complete report of each  
21 examination made under § 2-205 of this subtitle[,] OR § 23-207 [of this article, or],  
22 § 15-10B-19 [of this article], OR § 15-10B-20 OF THIS ARTICLE.

23 (b) An examination report shall contain only facts:

24 (1) from the books, records, or documents of the person being examined;  
25 or

26 (2) determined from statements of individuals about the person's affairs.

27 (c) (1) At least 30 days before filing a proposed examination report with the  
28 Commissioner, the Commissioner shall give a copy of the proposed report to the  
29 person that was examined.

30 (2) If the person requests a hearing in writing within the 30-day period,  
31 the Commissioner:

32 (i) shall grant a hearing on the proposed report; and

33 (ii) may not file the proposed report until after:

34 1. the hearing is held; and



1 (1) related to an examination made by the other state on an insurer  
2 domiciled in that state; and

3 (2) of a nature that would be considered confidential under paragraph  
4 (1) of this subsection if the examination had been made by this State under § 2-205 or  
5 § 2-206 of this subtitle or § 23-103 [or], § 15-10B-19, OR § 15-10B-20 of this article.  
6 15-10B-20.

7 (A) IN ADDITION TO THE REQUIREMENTS UNDER § 15-10B-19 OF THIS  
8 SUBTITLE, THE COMMISSIONER SHALL CONDUCT AN EXAMINATION OF ANY  
9 PHARMACY BENEFIT MANAGER REGISTERED AS A PRIVATE REVIEW AGENT TO  
10 DETERMINE WHETHER THE PHARMACY BENEFIT MANAGER IS ACTING IN  
11 COMPLIANCE WITH THIS SUBTITLE.

12 (B) THE EXAMINATION SHALL BE CONDUCTED:

13 (1) IN ACCORDANCE WITH § 2-207 OF THIS ARTICLE; AND

14 (2) AT LEAST ONCE EVERY 3 YEARS.

15 (C) THE EXPENSE OF THE EXAMINATION SHALL BE PAID IN ACCORDANCE  
16 WITH § 2-208 OF THIS ARTICLE.

17 (D) THE REPORTS OF THE EXAMINATION SHALL BE ISSUED IN ACCORDANCE  
18 WITH § 2-209 OF THIS ARTICLE.

19 SECTION 2. AND BE IT FURTHER ENACTED, That the Insurance  
20 Commissioner shall, in accordance with § 2-1246 of the State Government Article,  
21 submit a copy of the final report of the examination required under Section 1 of this  
22 Act to the Senate Finance Committee and the House Health and Government  
23 Operations Committee within 30 days of the completion of the final report.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2003.