
By: **Delegates Goldwater and Bromwell**

Introduced and read first time: February 5, 2003

Assigned to: Health and Government Operations

A BILL ENTITLED

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:

24 **Article - Insurance**

25 2-208.

26 The expense incurred in an examination made under § 2-205 of this subtitle, §
27 2-206 of this subtitle for surplus lines brokers and insurance holding corporations, §
28 23-207 of this article for premium finance companies, [or] § 15-10B-19 of this article

1 for private review agents, OR § 15-10B-20 OF THIS ARTICLE shall be paid by the person
2 examined in the following manner:

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

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

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

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

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

14 2-209.

15 (a) The Commissioner or an examiner shall make a complete report of each
16 examination made under § 2-205 of this subtitle[,] OR § 23-207 [of this article, or],
17 § 15-10B-19 [of this article], OR § 15-10B-20 OF THIS ARTICLE.

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

19 (1) from the books, records, or documents of the person being examined;
20 or

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

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

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

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

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

29 1. the hearing is held; and

30 2. any modifications of the report that the Commissioner
31 considers proper are made.

32 (d) (1) After an examination report is filed with the Commissioner, the
33 examination report is admissible as evidence of the facts contained in it in any action

1 brought by the Commissioner against the person examined or an officer or insurance
2 producer of the person.

3 (2) Regardless of whether a written examination report has been made,
4 served, or filed with the Commissioner, the Commissioner or an examiner may testify
5 and offer other proper evidence about information obtained during an examination.

6 (e) The Commissioner may withhold an examination or investigation report
7 from public inspection for as long as the Commissioner considers the withholding to
8 be:

9 (1) necessary to protect the person examined from unwarranted injury;
10 or

11 (2) in the public interest.

12 (f) If the Commissioner considers it to be in the public interest, the
13 Commissioner may publish an examination report or a summary of it in a newspaper
14 in the State.

15 (g) (1) Subject to paragraph (2) of this subsection, the Commissioner may
16 disclose a preliminary examination report, investigation report, or any other matter
17 related to an examination made under § 2-205 or § 2-206 of this subtitle or § 23-207
18 [or], § 15-10B-19, OR § 15-10B-20 of this article only to the insurance regulatory
19 agency of another state or to a federal, State, local, or other law enforcement agency.

20 (2) A disclosure may be made under paragraph (1) of this subsection only
21 if:

22 (i) the disclosure is made for regulatory, law enforcement, or
23 prosecutorial purposes;

24 (ii) the agency receiving the disclosure agrees in writing to keep the
25 disclosure confidential and in a manner consistent with this section; and

26 (iii) the Commissioner is satisfied that the agency will preserve the
27 confidential nature of the information.

28 (3) Notwithstanding the provisions of this subsection, final reports of
29 examinations are considered public documents and may be disclosed to the public.

30 (h) The Commissioner may not disclose any information obtained from
31 another state if the information is:

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

34 (2) of a nature that would be considered confidential under paragraph
35 (1) of this subsection if the examination had been made by this State under § 2-205 or
36 § 2-206 of this subtitle or § 23-103 [or], § 15-10B-19, OR § 15-10B-20 of this article.

1 15-10B-20.

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

7 (B) THE EXAMINATION SHALL BE CONDUCTED:

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

9 (2) AT LEAST ONCE EVERY 3 YEARS.

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

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

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

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