

March 11, 2021

The Honorable Steven Johnson, Chairperson
House Committee on Insurance and Pensions
Statehouse, Room 276A-W
Topeka, Kansas 66612

Dear Representative Johnson:

SUBJECT: Fiscal Note for HB 2383 by House Committee on Insurance and Pensions

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2383 is respectfully submitted to your committee.

HB 2383 would provide instances when a pharmacy benefits manager's (PBM) license could be revoked, suspended, or limited and when an application for a license or reinstatement of a license could be denied. The Insurance Commissioner would adopt, amend, or revoke rules and regulations to issue, regulate, and take action against a PBM no later than July 1, 2022.

HB 2383 would create a licensing status for PBM's and creates standards for conduct for PBM's. The bill would require that on and after January 1, 2022, a person would not perform, act or do business as a PBM unless they have a valid license issued by the Insurance Commissioner. The bill would require a PBM to submit a transparency report to the Insurance Commissioner. The bill would prohibit retaliation against a PBM for exercising rights under the law. The bill would set reimbursing standards by a PBM to pharmacies. The bill would create the Pharmacy Benefit Manager Licensure Fund to be administered by the Insurance Department and would be used for costs related to administering the PBM licensing Act. The bill would also increase the PBM application and renewal fees from \$140 to \$2,500. Finally, if a PBM is found to be in violation of or noncompliant with any state or federal laws, the PBM would be subject to a fine of \$5,000 per violation and \$5,000 per occurrence of noncompliance.

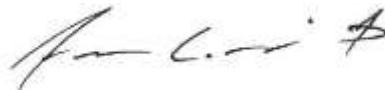
The Insurance Department states that it would require additional expenditures of \$72,000 in FY 2022 from its Pharmacy Benefit Manager Registration Fund. Of that amount, \$67,000 would be salary and benefit expenditures for 1.00 Policy Examiner FTE position and \$5,000 would be for computer and other office equipment. The bill would require a more complex review of the PBM applications and renewal material submitted. The bill also requires the agency to review

transparency reports, publish the reports on the website, develop reports, and review annual pharmacy network adequacy reports and waiver applications. The agency cannot estimate the revenue that would be generated from application and renewal fees and fines.

The Department of Administration anticipates that enactment of the bill would increase the State Employee Health Plan (SEHP) expenditures at a rate greater than the pharmacy trend because there would be no incentive for pharmacies to be cost efficient since they could pass along 100.0 percent of their costs. For FY 2020, the pharmacy expenditures were \$101,038,515 and the agency anticipates a 25.0 percent increase if the bill were enacted. Assuming an 8.5 percent SEHP drug trend, the increase for FY 2022 would be \$27,406,697 and the increase for FY 2023 would be \$29,736,266.

The Board of Pharmacy states that the bill would not have a fiscal effect on its operations. Any fiscal effect associated with HB 2383 is not reflected in *The FY 2022 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Bobbi Mariani, Insurance
Alexandra Blasi, Board of Pharmacy
Jeff Scannell, Department of Administration
Dan Thimmesch, Health & Environment