

VOTE NO: SB 235 & HB 795

Association Health Plans are currently offered in Virginia and are regulated by either the SCC and, for larger groups, the US Department of Labor.* SB 235 and HB 795 broaden what organizations can offer association plans and who can enroll in these plans. These new plans will be able to directly compete with ACA compliant health plans, but have few regulations, offer less coverage, and have fewer consumer protections. As drafted, AHPs would be able to operate with no oversight by the State Corporation Commission and be exempt from state taxes paid by other health insurance products.

Worse coverage, fewer consumer protections, and higher costs

- Premiums can be based on gender, age, occupation, or other social factors at the employer level.* Employers can also charge employees different premiums based on occupation.**
- AHPs under this bill would have a 5:1 age rating, meaning they charge older enrollees 5 times as much as younger enrollees. ACA compliant plans have a 3:1 age rating.
- Annual and lifetime out-of-pocket limits will only apply to the benefits covered by the AHP. This will leave consumers with high, unexpected medical bills.
- AHPs would not have to meet state solvency standards.

Expanding the availability of AHPs will lead to higher premiums in the private market.

- AHPs will draw younger and healthier individuals out of the individual market thus worsening the risk pool in the broader individual market, resulting in higher premiums for other consumers .

In 2018 (SB 934) and 2019 (HB 1616, HB 2443, & SB 1689) the Governor vetoed similar legislation (SB 934), stating that “This bill would undermine current efforts to stabilize the Virginia health insurance marketplace” and that the Commonwealth should “look at solutions such as those proposed by the Market Stability Workgroup in order to improve affordability across the Commonwealth’s health insurance markets.” The Governor also proposed a substitute bill in 2019 with a more robust suite of consumer protections.

See reverse for comparison of these bills, the Governor’s 2019 substitute bill, and ACA compliant plans.

*See *Report of the Virginia Market Stability Work Group*, RD 564, December 2018, pp. 18-20 and Appendix C. <https://rga.lis.virginia.gov/Published/2018/RD564/PDF>

See *Final Rule Rapidly Eases Restrictions On Non-ACA-Compliant Association Health Plans*, **Health Affairs Blog, June 2018, <https://www.healthaffairs.org/doi/10.1377/hblog20180621.671483/full/>

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Consumer Protections	SB 235 & HB 795	Governor's 2019 Substitute	ACA Compliant Plans
Coverage for pre-existing conditions	X	✓	✓
Guarantee issue and renewability	✓	✓	✓
3:1 Age rating	X (5:1)	✓	✓
Solvency requirements	X	✓	✓
Subject to taxes and maintenance assessments	X	✓	✓
Cost-sharing requirements		✓	✓
Covers Essential Health Benefits		✓	✓
85% Medical Loss Ratio	X (40%)	✓	✓ (for ERISA plans)
Regulates plans with fewer than 51 members	X	✓	✓

SB 861:

- The Department also maintained proposed nondiscrimination protections that prohibit associations from conditioning membership based on a health factor (although not other factors such as gender, age, geography, and industry)
- Three analyses—one from Avalere, one from Oliver Wyman, and one from the Society of Actuaries—each showed that the proposed rule on AHPs would have a significant impact on the traditional ACA individual and small group markets. Avalere found that up to 4.3 million people enrolled in the individual and small group markets would shift to AHP coverage, premiums would rise by up to 4 percent, and up to 140,000 additional individuals would become uninsured by 2022. Oliver Wyman found that the AHP rule would increase claim costs in D.C.'s individual market and small group market by up to about 11 percent and 26 percent, respectively. The Society of Actuaries found that up to 10 percent of current enrollees in the overall individual market could shift to AHP coverage and claims in the individual ACA market would increase by about 4.4 percent.

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