

1 H.775

2 Introduced by Representative Lippert of Hinesburg

3 Referred to Committee on

4 Date:

5 Subject: Health; prescription drugs; prescription drug manufacturers; coupons
6 and discounts; generic drugs

7 Statement of purpose of bill as introduced: This bill proposes to prohibit
8 prescription drug manufacturers from offering a discount, coupon, voucher, or
9 other reduction in a consumer's out-of-pocket expenses associated with health
10 insurance coverage for a prescription drug if a lower cost, therapeutically
11 equivalent generic drug is covered under the consumer's health insurance plan.

12 An act relating to restricting the use of coupons and discounts for
13 prescription drugs

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 18 V.S.A. § 4609 is added to read:

16 § 4609. RESTRICTIONS ON COUPONS AND DISCOUNTS

17 (a) As used in this section:

18 (1) "Health insurance plan" means any health insurance policy or health
19 benefit plan offered by a health insurer and includes any health benefit plan

1 offered or administered by the State or by any subdivision or instrumentality of
2 the State.

3 (2) "Health insurer" shall have the same meaning as in section 9402 of
4 this title.

5 (3) "Independent charity patient assistance program" means a program
6 that meets all of the following requirements:

7 (A) the program does not allow a pharmaceutical manufacturer or an
8 affiliate of the manufacturer, including an employee, agent, officer,
9 shareholder, contractor, wholesaler, distributor, or pharmacy benefit manager,
10 to exert any direct or indirect influence over the charity or subsidy program;

11 (B) assistance is awarded in a truly independent manner that severs
12 any link between a pharmaceutical manufacturer's funding and the beneficiary;

13 (C) assistance is awarded without regard to the pharmaceutical
14 manufacturer's interest and without regard to the beneficiary's choice of
15 product, provider, practitioner, supplier, health insurance plan, or other health
16 coverage;

17 (D) assistance is awarded based on a reasonable, verifiable, and
18 uniform measure of financial need that is applied in a consistent manner; and

19 (E) the pharmaceutical manufacturer does not solicit or receive data
20 from the program that would facilitate the manufacturer in correlating the

1 amount or frequency of its donations with the number of subsidized
2 prescriptions for its products.

3 (4) “Pharmaceutical manufacturer” shall have the same meaning as in
4 section 4631a of this title.

5 (b) A pharmaceutical manufacturer shall not offer in this State a coupon,
6 discount, repayment, product voucher, or other reduction in an individual’s
7 out-of-pocket expenses associated with his or her health insurance plan,
8 including a co-payment, coinsurance, or deductible, for a prescription drug if a
9 lower cost generic drug is covered under the individual’s health insurance plan
10 on a lower cost-sharing tier and is designated as therapeutically equivalent by
11 the U.S. Food and Drug Administration’s “Approved Drug Products with
12 Therapeutic Equivalence Evaluations,” commonly known as the “Orange
13 Book.”

14 (c) The prohibition in subsection (b) of this section shall not apply to any of
15 the following:

16 (1) a coupon, discount, repayment, product voucher, or other payment to
17 a patient or to another person on the patient’s behalf for a prescription drug
18 required under a U.S. Food and Drug Administration Risk Evaluation and
19 Mitigation Strategy for the purpose of monitoring or facilitating the use of that
20 prescription drug in a manner consistent with the approved labeling of the
21 prescription drug;

1 (2) a single-tablet drug regimen for treatment or prevention of the
2 human immunodeficiency virus or acquired immune deficiency syndrome that
3 is as effective as a multitablet regimen unless, consistent with clinical
4 guidelines and peer-reviewed scientific and medical literature, the multitablet
5 regimen is clinically equally effective or more effective and is more likely to
6 result in adherence to the drug regimen;

7 (3) the individual has completed any applicable step therapy or prior
8 authorization requirements for the branded prescription drug as mandated by
9 the individual's health insurance plan; or

10 (4) a coupon, discount, repayment, product voucher, or other reduction
11 in an individual's out-of-pocket expenses is not associated with his or her
12 health insurance plan.

13 (d)(1) Nothing in this section shall be construed to prohibit an entity,
14 including an entity that manufactures prescription drugs or a patient assistance
15 program that is solely funded by one or more manufacturers, from offering a
16 prescription drug or other pharmaceutical product free of any cost, if the drug
17 or other product is free of cost to both the patient and his or her health
18 insurance plan.

19 (2) Nothing in this section shall be construed to limit a pharmacist's
20 ability to substitute a prescription drug pursuant to section 4605 of this title.

1 (3) Nothing in this section shall be construed to prohibit or limit
2 assistance to a patient provided by an independent charity patient assistance
3 program.

4 Sec. 2. EFFECTIVE DATE

5 This act shall take effect on July 1, 2018.