

**S.92 - Markup of House Proposal of Amendment showing markup from  
Senate Further Proposal of Amendment to House Proposal of Amendment**

1                                   \* \* \* Interchangeable Biological Products \* \* \*

2    Sec. 1. 18 V.S.A. § 4601 is amended to read:

3    § 4601. DEFINITIONS

4       ~~For the purposes of this chapter, unless the context otherwise clearly requires~~ As used in this  
5 chapter:

6       (1) ~~“Brand name” means the registered trademark name given to a drug product by its~~  
7 ~~manufacturer or distributor;~~ “Biological product” means a virus, therapeutic serum, toxin,  
8 antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein (except any  
9 chemically synthesized polypeptide), or analogous product, or arsphenamine or derivative of  
10 arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention,  
11 treatment, or cure of a disease or condition in human beings.

12       (2) ~~“Generic name” means the official name of a drug product as established by the United~~  
13 ~~States Adopted Names Council (USAN) or its successor, if applicable;~~ “Brand name” means the  
14 registered trademark name given to a drug product by its manufacturer or distributor.

15       (3) ~~“Pharmacist” means a natural person licensed by the state board of pharmacy to~~  
16 ~~prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons;~~

17       (4) ~~“Generic drug” means a drug listed by generic name and considered to be chemically~~  
18 ~~and therapeutically equivalent to a drug listed by brand name, as both names are identified in the~~  
19 ~~most recent edition of~~ or supplement to the federal U.S. Food and Drug Administration’s  
20 ~~“Orange Book” of approved drug products;~~ Approved Drug Products with Therapeutic  
21 Equivalence Evaluations (the Orange Book).

1       (4) “Generic name” means the official name of a drug product as established by the U.S.  
2 Adopted Names Council (USAN) or its successor, if applicable.

3       (5) “Interchangeable biological product” means a biological product that the U.S. Food  
4 and Drug Administration has:

5           (A) licensed and determined, pursuant to 42 U.S.C. § 262(k)(4), to be interchangeable  
6 with the reference product against which it was evaluated **as may be reflected in the U.S. Food**  
7 **and Drug Administration’s Lists of Licensed Biological Products with Reference Product**  
8 **Exclusivity and Biosimilarity or Interchangeability Evaluations (the Purple Book); or**

9           (B) determined to be therapeutically equivalent as set forth in the latest edition of or  
10 supplement to the U.S. Food and Drug Administration’s Approved Drug Products with  
11 Therapeutic Equivalence Evaluations (the Orange Book).

12       (6) “Pharmacist” means a natural person licensed by the State Board of Pharmacy to  
13 prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons.

14       ~~(5)~~(7) “Prescriber” means any duly licensed physician, dentist, veterinarian, or other  
15 practitioner licensed to write prescriptions for the treatment or prevention of disease in man or  
16 animal.

17       (8) “Proper name” means the non-proprietary name of a biological product.

18       (9) “Reference product” means the single biological product licensed pursuant to 42  
19 U.S.C. § 262(a) against which the interchangeable biological product was evaluated by the U.S.  
20 Food and Drug Administration pursuant to 42 U.S.C. § 262(k).

1 Sec. 2. 18 V.S.A. § 4605 is amended to read:

2 § 4605. ALTERNATIVE DRUG OR BIOLOGICAL PRODUCT

3 SELECTION

4 (a)(1) When a pharmacist receives a prescription for a drug ~~which~~ that is listed either by  
5 generic name or brand name in the most recent edition of or supplement to the U.S. Department  
6 of Health and Human Services' publication Approved Drug Products With Therapeutic  
7 Equivalence Evaluations (the "Orange Book") of approved drug products, the pharmacist shall  
8 select the lowest priced drug from the list which is equivalent as defined by the "Orange Book,"  
9 unless otherwise instructed by the prescriber, or by the purchaser if the purchaser agrees to pay  
10 any additional cost in excess of the benefits provided by the purchaser's health benefit plan if  
11 allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for  
12 the higher priced drug.

13 (2) When a pharmacist receives a prescription for a biological product, the pharmacist  
14 shall select the lowest priced interchangeable biological product unless otherwise instructed by  
15 the prescriber, or by the purchaser if the purchaser agrees to pay any additional cost in excess of  
16 the benefits provided by the purchaser's health benefit plan if allowed under the legal  
17 requirements applicable to the plan, or otherwise to pay the full cost for the higher priced  
18 biological product.

19 (3) Notwithstanding subdivisions (1) and (2) of this subsection, when a pharmacist  
20 receives a prescription from a Medicaid beneficiary, the pharmacist shall select the preferred  
21 brand-name or generic drug or biological product from the Department of Vermont Health  
22 Access's preferred drug list.

1 (b) The purchaser shall be informed by the pharmacist or his or her representative that an  
2 alternative selection as provided under subsection (a) of this section will be made unless the  
3 purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's  
4 health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to  
5 pay the full cost for the higher priced drug or biological product.

6 (c) When refilling a prescription, pharmacists shall receive the consent of the prescriber to  
7 dispense a drug or biological product different from that originally dispensed, and shall inform  
8 the purchaser that a ~~generic~~ substitution shall be made pursuant to this section unless the  
9 purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's  
10 health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to  
11 pay the full cost for the higher priced drug or biological product.

12 (d) Any pharmacist substituting a generically equivalent drug or interchangeable biological  
13 product shall charge no more than the usual and customary retail price for that selected drug or  
14 biological product. This charge shall not exceed the usual and customary retail price for the  
15 prescribed brand.

16 (e)(1) Except as described in subdivision (4) of this subsection, within five business days  
17 following the dispensing of a biological product, the dispensing pharmacist or designee shall  
18 communicate the specific biological product provided to the patient, including the biological  
19 product's name and manufacturer, by submitting the information in a format that is accessible to  
20 the prescriber electronically through one of the following:

21 (A) an interoperable electronic medical records system;

22 (B) an electronic prescribing technology;

23 (C) a pharmacy benefit management system; or

1           (D) a pharmacy record.

2           (2) Entry into an electronic records system as described in subdivision (1) of this  
3 subsection shall be presumed to provide notice to the prescriber.

4           (3)(A) If a pharmacy does not have access to one or more of the electronic systems  
5 described in subdivision (1) of this subsection (e), the pharmacist or designee shall communicate  
6 to the prescriber the information regarding the biological product dispensed using telephone,  
7 facsimile, electronic transmission, or other prevailing means.

8           (B) If a prescription is communicated to the pharmacy by means other than electronic  
9 prescribing technology, the pharmacist or designee shall communicate to the prescriber the  
10 information regarding the biological product dispensed using the electronic process described in  
11 subdivision (1) of this subsection (e) unless the prescriber requests a different means of  
12 communication on the prescription.

13           (4) Notwithstanding any provision of this subsection to the contrary, a pharmacist shall  
14 not be required to communicate information regarding the biological product dispensed in the  
15 following circumstances:

16           (A) the U.S. Food and Drug Administration has not approved any interchangeable  
17 biological products for the product prescribed; or

18           (B) the pharmacist dispensed a refill prescription in which the product dispensed was  
19 unchanged from the product dispensed at the prior filling of the prescription.

20           (f) The Board of Pharmacy shall maintain a link on its website to the current lists of all  
21 biological products that the U.S. Food and Drug Administration has determined to be  
22 interchangeable biological products.

1 Sec. 3. 18 V.S.A. § 4606 is amended to read:

2 § 4606. BRAND CERTIFICATION

3 If the prescriber has determined that the generic equivalent of a drug or the interchangeable  
4 biological product for the biological product being prescribed has not been effective or with  
5 reasonable certainty is not expected to be effective in treating the patient's medical condition or  
6 causes or is reasonably expected to cause adverse or harmful reactions in the patient, the  
7 prescriber shall indicate "brand necessary," "no substitution," "dispense as written," or "DAW"  
8 in the prescriber's own handwriting on the prescription blank or shall indicate the same using  
9 electronic prescribing technology and the pharmacist shall not substitute the generic equivalent  
10 or interchangeable biological product. If a prescription is unwritten and the prescriber has  
11 determined that the generic equivalent of the drug or the interchangeable biological product for  
12 the biological product being prescribed has not been effective or with reasonable certainty is not  
13 expected to be effective in treating the patient's medical condition or causes or is reasonably  
14 expected to cause adverse or harmful reactions in the patient, the prescriber shall expressly  
15 indicate to the pharmacist that the brand-name drug or biological product is necessary and  
16 substitution is not allowed and the pharmacist shall not substitute the generic equivalent drug or  
17 interchangeable biological product.

18 Sec. 4. 18 V.S.A. § 4607 is amended to read:

19 § 4607. INFORMATION; LABELING

20 (a) Every pharmacy in the ~~state~~ State shall have posted a sign in a prominent place that is in  
21 clear unobstructed view which shall read: "Vermont law requires pharmacists in some cases to  
22 select a less expensive generic equivalent drug or interchangeable biological product for the drug

1 or biological product prescribed unless you or your physician direct otherwise. Ask your  
2 pharmacist.”

3 (b) The label of the container of all drugs and biological products dispensed by a pharmacist  
4 under this chapter shall indicate the generic or proper name using an abbreviation if necessary,  
5 the strength of the drug or biological product, if applicable, and the name or number of the  
6 manufacturer or distributor.

7 Sec. 5. 18 V.S.A. § 4608 is amended to read:

8 § 4608. LIABILITY

9 (a) Nothing in this chapter shall affect a licensed hospital with the development and  
10 maintenance of a hospital formulary system in accordance with that institution’s policies and  
11 procedures that pertain to its drug distribution system developed by the medical staff in  
12 cooperation with the hospital’s pharmacist and administration.

13 (b) The substitution of a generic drug or interchangeable biological product by a pharmacist  
14 under the provisions of this chapter does not constitute the practice of medicine.

15 Sec. 6. 8 V.S.A. § 4089i is amended to read:

16 § 4089i. PRESCRIPTION DRUG COVERAGE

17 \* \* \*

18 (g) A health insurance or other health benefit plan offered by a health insurer or by a  
19 pharmacy benefit manager on behalf of a health insurer that provides coverage for prescription  
20 drugs shall apply the same cost-sharing requirements to interchangeable biological products as  
21 apply to generic drugs under the plan.

22 (h) As used in this section:

23 \* \* \*

1       (6) “Interchangeable biological products” shall have the same meaning as in 18 V.S.A.  
2 § 4601.

3       ~~(h)~~(i) The Department of Financial Regulation shall enforce this section and may adopt rules  
4 as necessary to carry out the purposes of this section.

5                               \* \* \* Health Insurance Plan Reporting \* \* \*

6 Sec. 7. 8 V.S.A. § 4062 is amended to read:

7 § 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

8                               \* \* \*

9       (b)(1) In conjunction with a rate filing required by subsection (a) of this section, an insurer  
10 shall file a plain language summary of the proposed rate. All summaries shall include a brief  
11 justification of any rate increase requested, the information that the Secretary of the U.S.  
12 Department of Health and Human Services (HHS) requires for rate increases over 10 percent,  
13 and any other information required by the Board. The plain language summary shall be in the  
14 format required by the Secretary of HHS pursuant to the Patient Protection and Affordable Care  
15 Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation  
16 Act of 2010, Public Law 111-152, and shall include notification of the public comment period  
17 established in subsection (c) of this section. In addition, the insurer shall post the summaries on  
18 its website.

19       (2)(A) In conjunction with a rate filing required by subsection (a) of this section, an  
20 insurer shall disclose to the Board:

21               (i) for all covered prescription drugs, including generic drugs, brand-name drugs  
22 excluding specialty drugs, and specialty drugs dispensed at a pharmacy, network pharmacy, or  
23 mail-order pharmacy for outpatient use:



1            (I) the percentage of the premium rate attributable to prescription drug costs for  
 2 the prior year for each category of prescription drugs;

3            (II) the year-over-year increase or decrease, expressed as a percentage, in per-  
 4 member, per-month total health plan spending on each category of prescription drugs; and

5            (III) the year-over-year increase or decrease in per-member, per-month costs for  
 6 prescription drugs compared to other components of the premium rate; and

7            (ii) the specialty tier formulary list.

8            (B) The insurer shall provide, if available, the percentage of the premium rate  
 9 attributable to prescription drugs administered by a health care provider in an outpatient setting  
 10 that are part of the medical benefit as separate from the pharmacy benefit.

11            (C) The insurer shall include information on its use of a pharmacy benefit manager, if  
 12 any, including which components of the prescription drug coverage described in subdivisions  
 13 (A) and (B) of this subdivision (2) are managed by the pharmacy benefit manager, as well as the  
 14 name of the pharmacy benefit manager or managers used.

15            (c)(1) The Board shall provide information to the public on the Board’s website about the  
 16 public availability of the filings and summaries required under this section.

17            (2)(A) ~~Beginning no later than January 1, 2014, the~~ The Board shall post the rate filings  
 18 pursuant to subsection (a) of this section and summaries pursuant to subsection (b) of this section  
 19 on the Board’s website within five calendar days ~~of~~ following filing. The Board shall also  
 20 establish a mechanism by which members of the public may request to be notified automatically  
 21 each time a proposed rate is filed with the Board.

22            \* \* \*

1 Sec. 8. 18 V.S.A. § 4636 is added to read:

2 § 4636. IMPACT OF PRESCRIPTION DRUG COSTS ON HEALTH

3 INSURANCE PREMIUMS; REPORT

4 (a)(1) Each health insurer with more than 1,000 covered lives in this State **for major medical**  
5 **health insurance** shall report to the Green Mountain Care Board, for all covered prescription  
6 drugs, including generic drugs, brand-name drugs, and specialty drugs provided in an outpatient  
7 setting or sold in a retail setting:

8 (A) the 25 most frequently prescribed drugs and the average wholesale price for each  
9 drug;

10 (B) the 25 most costly drugs by total plan spending and the average wholesale price for  
11 each drug; and

12 (C) the 25 drugs with the highest year-over-year price increases and the average  
13 wholesale price for each drug.

14 (2) A health insurer shall not be required to provide to the Green Mountain Care Board the  
15 actual price paid, net of rebates, for any prescription drug.

16 (b) The Green Mountain Care Board shall compile the information reported pursuant to  
17 subsection (a) of this section into a consumer-friendly report that demonstrates the overall impact  
18 of drug costs on health insurance premiums. The data in the report shall be aggregated and shall  
19 not reveal information as specific to a particular health benefit plan.

20 (c) The Board shall publish the report required pursuant to subsection (b) of this section on its  
21 website on or before January 1 of each year.

\* \* \* Prescription Drug Price Transparency and Notice of  
New High-Cost Drugs \* \* \*

Sec. 9. 18 V.S.A. § 4635 is amended to read:

§ 4635. ~~PHARMACEUTICAL~~ PRESCRIPTION DRUG COST  
TRANSPARENCY

(a) As used in this section:

(1) “Manufacturer” shall have the same meaning as “pharmaceutical manufacturer” in section 4631a of this title.

(2) “Prescription drug” means a drug as defined in 21 U.S.C. § 321.

(b)(1)(A) ~~The Green Mountain Care Board, in collaboration with the~~ Department of Vermont Health Access; shall ~~identify~~ create annually ~~up to 15~~ a list of 10 prescription drugs on which the State spends significant health care dollars and for which the wholesale acquisition cost has increased by 50 percent or more over the past five years or by 15 percent or more ~~over the past 12 months~~ during the previous calendar year, creating a substantial public interest in understanding the development of the drugs’ pricing. ~~The drugs identified shall represent different drug classes.~~ The list shall include at least one generic and one brand-name drug and shall indicate each of the drugs on the list that the Department considers to be specialty drugs. The Department shall include the percentage of the wholesale acquisition cost increase for each drug on the list; rank the drugs on the list from those with the largest increase in wholesale acquisition cost to those with the smallest increase; indicate whether each drug was included on the list based on its cost increase over the past five years or during the previous calendar year, or both; and provide the Department’s total expenditure for each drug on the list during the most recent calendar year.

1           (B) The Department of Vermont Health Access shall create annually a list of 10  
2 prescription drugs on which the State spends significant health care dollars and for which the  
3 cost to the Department of Vermont Health Access, net of rebates and other price concessions, has  
4 increased by 50 percent or more over the past five years or by 15 percent or more during the  
5 previous calendar year, creating a substantial public interest in understanding the development of  
6 the drugs' pricing. The list shall include at least one generic and one brand-name drug and shall  
7 indicate each of the drugs on the list that the Department considers to be specialty drugs. The  
8 Department shall rank the drugs on the list from those with the greatest increase in net cost to  
9 those with the smallest increase and indicate whether each drug was included on the list based on  
10 its cost increase over the past five years or during the previous calendar year, or both.

11           (C)(i) Each health insurer with more than 5,000 covered lives in this State for major  
12 medical health insurance shall create annually a list of 10 prescription drugs on which its health  
13 insurance plans spend significant amounts of their premium dollars and for which the cost to the  
14 plans, net of rebates and other price concessions, has increased by 50 percent or more over the  
15 past five years or by 15 percent or more during the previous calendar year, or both, creating a  
16 substantial public interest in understanding the development of the drugs' pricing. The list shall  
17 include at least one generic and one brand-name drug and shall indicate each of the drugs on the  
18 list that the health insurer considers to be specialty drugs. **The health insurer shall rank the**  
19 **drugs on the list from those with the greatest increase in net cost to those with the smallest**  
20 **increase and indicate whether each drug was included on the list based on its cost increase**  
21 **over the past five years or during the previous calendar year, or both.**

22           ~~(ii) A health insurer shall not be required to identify the exact percentage by~~  
23 ~~which the net cost to its plans for any prescription drug increased over any specific period~~

1 ~~of time, but shall rank the drugs on its list in order from the largest to the smallest cost~~  
2 ~~increase and shall provide the insurer's total expenditure, net of rebates and other price~~  
3 ~~concessions, for each drug on the list during the most recent calendar year.~~

4 (ii) Each health insurer creating a list pursuant to subdivision (i) of this  
5 subdivision (b)(1)(C) shall provide to the Office of the Attorney General the percentage by  
6 which the net cost to its plans increased over the applicable period or periods for each drug  
7 on the list, as well as the insurer's total expenditure, net of rebates and other price  
8 concessions, for each drug on the list during the most recent calendar year. Information  
9 provided to the Office of the Attorney General pursuant to this subdivision (b)(1)(C)(ii) is  
10 exempt from public inspection and copying under the Public Records Act and shall not be  
11 released.

12 (2) The ~~Board~~ Department of Vermont Health Access and the health insurers shall provide  
13 to the Office of the Attorney General and the Green Mountain Care Board the ~~list~~ lists of  
14 prescription drugs developed pursuant to subdivisions (1)(A), (B), and (C)(i) of this subsection  
15 ~~and the percentage of the wholesale acquisition cost increase for each drug and~~ annually on or  
16 before June 1. The Office of the Attorney General and the Green Mountain Care Board shall  
17 make all of the information available to the public on ~~the Board's website~~ their respective  
18 websites.

19 (c)(1)(A) ~~For each prescription drug identified~~ Of the prescription drugs listed by the  
20 Department of Vermont Health Access and the health insurers pursuant to subsection (b)  
21 subdivisions (b)(1)(B) and (C) of this section, the Office of the Attorney General shall identify  
22 15 drugs as follows:

1           (i) of the drugs appearing on more than one payer's list, the Office of the Attorney  
2 General shall identify the top 15 drugs on which the greatest amount of money was spent across  
3 all payers during the previous calendar year, to the extent information is available; and

4           (ii) if fewer than 15 drugs appear on more than one payer's list, the Office of the  
5 Attorney General shall rank the remaining drugs based on the amount of money spent by any one  
6 payer during the previous calendar year, in descending order, and select as many of the drugs at  
7 the top of the list as necessary to reach a total of 15 drugs.

8           (B) For the 15 drugs identified by the Office of the Attorney General pursuant to  
9 subdivision (A) of this subdivision (1), the Office of the Attorney General shall require the  
10 drug's manufacturer of each such drug to provide a justification all of the following:

11           (i) Justification for the increase in the ~~wholesale acquisition~~ net cost of the drug to  
12 the Department of Vermont Health Access, to one or more health insurers, or both, which shall  
13 be provided to the Office of the Attorney General in a format that the Office of the Attorney  
14 General determines to be understandable and appropriate and shall be provided in accordance  
15 with a timeline specified by the Office of the Attorney General. The manufacturer shall submit  
16 to the Office of the Attorney General all relevant information and supporting documentation  
17 necessary to justify the manufacturer's ~~wholesale acquisition~~ net cost increase over to the  
18 Department of Vermont Health Access, to one or more more health insurers, or both during the  
19 identified period of time, ~~which may include~~ including:

20           (A)(I) all factors that have contributed to the ~~wholesale acquisition~~ each factor  
21 that specifically caused the net cost increase over to the Department of Vermont Health Access,  
22 to one or more health insurers, or both during the specified period of time;

1           ~~(B)(II)~~ the percentage of the total ~~wholesale acquisition~~ cost increase attributable  
2 to each factor; and

3           ~~(C)(III)~~ an explanation of the role of each factor in contributing to the ~~wholesale~~  
4 ~~acquisition~~ cost increase.

5           (ii) A separate version of the information submitted pursuant to subdivision (i) of this  
6 subdivision (1)(B), which shall be made available to the public by the Office of the Attorney  
7 General and the Green Mountain Care Board pursuant to subsection (d) of this section. In the  
8 event that the manufacturer believes it necessary to redact certain information in the public  
9 version as proprietary or confidential, the manufacturer shall provide an explanation for each  
10 such redaction to the Office of the Attorney General. The information, format, and any  
11 redactions shall be subject to approval by the Office of the Attorney General.

12           (iii) Additional information in response to all requests for such information by the  
13 Office of the Attorney General.

14           (2) Nothing in this section shall be construed to restrict the legal ability of a prescription  
15 drug manufacturer to change prices to the extent permitted under federal law.

16           ~~(d)(1)~~ The Attorney General, ~~in consultation with the Department of Vermont Health Access,~~  
17 shall provide a report to the General Assembly on or before December 1 of each year based on  
18 the information received from manufacturers pursuant to this section. The Attorney General  
19 shall ~~also~~ post the report and the public version of each manufacturer's information submitted  
20 pursuant to subdivision (c)(1)(B)(ii) of this section on the Office of the Attorney General's  
21 website.

22           (2) The Green Mountain Care Board shall post on its website the report prepared by the  
23 Attorney General pursuant to subdivision (1) of this subsection and the public version of each

1 manufacturer's information submitted pursuant to subdivision (c)(1)(B)(ii) of this section, and  
2 may inform the public of the availability of the report and the manufacturers' justification  
3 information.

4 (e) Information provided to the Office of the Attorney General pursuant **subdivision**  
5 **(c)(1)(B) of** this section is exempt from public inspection and copying under the Public  
6 Records Act and shall not be released in a manner that allows for the identification of an  
7 individual drug or manufacturer or that is likely to compromise the financial, competitive, or  
8 proprietary nature of the information, except for the information prepared for release to the  
9 public pursuant to subdivision (c)(1)(B)(ii) of this section.

10 (f) The Attorney General may bring an action in the Civil Division of the Superior Court,  
11 Washington County for injunctive relief, costs, and attorney's fees, and to impose on a  
12 manufacturer that fails to provide any of the information required by subsection (c) of this  
13 section, in the format requested by the Office of the Attorney General and in accordance with the  
14 timeline specified by the Office of the Attorney General, a civil penalty of ~~no~~ not more than  
15 \$10,000.00 per violation. Each unlawful failure to provide information shall constitute a  
16 separate violation. In any action brought pursuant to this section, the Attorney General shall  
17 have the same authority to investigate and to obtain remedies as if the action were brought under  
18 the Consumer Protection Act, 9 V.S.A. chapter 63.

19 Sec. 10. 18 V.S.A. § 4637 is added to read:

20 § 4637. NOTICE OF INTRODUCTION OF NEW HIGH-COST

21 PRESCRIPTION DRUGS

22 (a) As used in this section:



1       (1) “Manufacturer” shall have the same meaning as “pharmaceutical manufacturer” in  
2 section 4631a of this title.

3       (2) “Prescription drug” means a drug as defined in 21 U.S.C. § 321.

4       (b) A prescription drug manufacturer shall notify the Office of the Attorney General in  
5 writing if it is introducing a new prescription drug to market at a wholesale acquisition cost that  
6 exceeds the threshold set for a specialty drug under the Medicare Part D program. The  
7 manufacturer shall provide the written notice within three calendar days following the release of  
8 the drug in the commercial market. A manufacturer may make the notification pending approval  
9 by the U.S. Food and Drug Administration (FDA) if commercial availability is expected within  
10 three calendar days following the approval.

11       (c) Not later than 30 calendar days following notification pursuant to subsection (b) of this  
12 section, the manufacturer shall provide all of the following information to the Office of the  
13 Attorney General in a format that the Office prescribes:

14       (1) a description of the marketing and pricing plans used in the launch of the new drug in  
15 the United States and internationally;

16       (2) the estimated volume of patients who may be prescribed the drug;

17       (3) whether the drug was granted breakthrough therapy designation or priority review by  
18 the FDA prior to final approval; and

19       (4) the date and price of acquisition if the drug was not developed by the manufacturer.

20       (d) The manufacturer may limit the information reported pursuant to subsection (c) of this  
21 section to that which is otherwise in the public domain or publicly available.

22       (e) The Office of the Attorney General shall publish on its website at least quarterly the  
23 information reported to it pursuant to this section. The information shall be published in a

1 manner that identifies the information that is disclosed on a per-drug basis and shall not be  
2 aggregated in a manner that would not allow identification of the drug.

3 (f) The Attorney General may bring an action in the Civil Division of the Superior Court,  
4 Washington County for injunctive relief, costs, and attorney's fees and to impose on a  
5 manufacturer that fails to provide the information required by subsection (c) of this section a  
6 civil penalty of not more than \$1,000.00 per day for every day after the notification period  
7 described in subsection (b) of this section that the required information is not reported. In any  
8 action brought pursuant to this section, the Attorney General shall have the same authority to  
9 investigate and to obtain remedies as if the action were brought under the Consumer Protection  
10 Act, 9 V.S.A. chapter 63.

11 \* \* \* Disclosures by Pharmacists \* \* \*

12 Sec. 11. 18 V.S.A. § 9473(b) is amended to read:

13 (b) A pharmacy benefit manager or other entity paying pharmacy claims shall not:

14 (1) impose a higher co-payment for a prescription drug than the co-payment applicable to  
15 the type of drug purchased under the insured's health plan;

16 (2) impose a higher co-payment for a prescription drug than the maximum allowable cost  
17 for the drug; ~~or~~

18 (3) require a pharmacy to pass through any portion of the insured's co-payment to the  
19 pharmacy benefit manager or other payer;

20 (4) prohibit or penalize a pharmacy or pharmacist for providing information to an insured  
21 regarding the insured's cost-sharing amount for a prescription drug; or

1       (5) prohibit or penalize a pharmacy or pharmacist for the pharmacist or other pharmacy  
2 employee disclosing to an insured the cash price for a prescription drug or selling a lower cost  
3 drug to the insured if one is available.

4                   **\*\*\* Working Group on Prescription Drug Cost Savings**

5                                   **and Price Transparency \*\*\***

6 **Sec. 11a. WORKING GROUP ON PRESCRIPTION DRUG COST**

7                   **SAVINGS AND PRICE TRANSPARENCY; REPORT**

8       **(a) The Secretary of Human Services or designee shall convene a working group**  
9 **comprising one representative each from the Department of Vermont Health Access, the**  
10 **Green Mountain Care Board, the Vermont Board of Pharmacy, the Vermont Association**  
11 **of Chain Drug Stores, the Vermont Pharmacists Association, the Vermont Retail Druggists,**  
12 **Bi-State Primary Care Association, and the Vermont Association of Hospitals and Health**  
13 **Systems to investigate and analyze prescription drug pricing throughout the prescription**  
14 **drug supply chain in order to identify opportunities for savings for Vermont consumers**  
15 **and other payers and for increasing prescription drug price transparency at all levels of the**  
16 **supply chain, including manufacturers, wholesalers, pharmacy benefit managers, health**  
17 **insurers, pharmacies, and consumers.**

18       **(b) On or before November 15, 2018, the working group shall provide its findings and**  
19 **recommendations to the House Committee on Health Care and the Senate Committee on**  
20 **Health and Welfare.**

21                                   **\*\*\* Effective Dates \*\*\***

22 **Sec. 12. EFFECTIVE DATES**

23       (a) Secs. 1–6 (interchangeable biological products) shall take effect on July 1, 2018.

1        (b) Sec. 11 (18 V.S.A. § 9473; disclosures by pharmacists) shall take effect on July 1, 2018  
2        and shall apply to all contracts taking effect on or after that date.

3        (c) The remaining sections shall take effect on passage.

4        and that after passage the title of the bill be amended to read: “An act relating to prescription  
5        drug price transparency and cost containment”