1	TO THE HONORABLE SENATE:
2	The Committee on Health and Welfare to which was referred House Bill
3	No. 353 entitled "An act relating to pharmacy benefit management"
4	respectfully reports that it has considered the same and recommends that the
5	Senate propose to the House that the bill be amended as follows:
6	First: By adding a new section to be Sec. 1a to read as follows:
7	Sec. 1a. 18 V.S.A. § 9421 is amended to read:
8	§ 9421. PHARMACY BENEFIT MANAGEMENT; REGISTRATION;
9	INSURER AUDIT OF PHARMACY BENEFIT MANAGER
10	ACTIVITIES
11	* * *
12	(f) The Department of Financial Regulation shall monitor the cost
13	impacts on Vermont consumers of pharmacy benefit manager regulation
14	pursuant to this section and to subchapter 9 of this chapter and shall
15	recommend appropriate modifications to the laws as needed to promote health
16	care affordability in this State.
17	(g) As used in this section:

18

* * *

1	Second: In Sec. 2, 18 V.S.A. chapter 221, subchapter 9, in § 9471,
2	following the ellipses after subdivision (2), by adding a new subdivision to be
3	subdivision (7) to read as follows:
4	(7) "Pharmacy benefit manager affiliate" means a pharmacy or
5	pharmacist that, directly or indirectly, through one or more intermediaries, is
6	owned or controlled by, or is under common ownership or control with, a
7	pharmacy benefit manager.
8	Third: By striking out Sec. 4, 8 V.S.A. § 4089j, in its entirety and inserting
9	in lieu thereof a new Sec. 4 to read as follows:
10	Sec. 4. 8 V.S.A. § 4089j is amended to read:
11	§ 4089j. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS
12	(a) As used in this section:
13	* * *
14	(4) "Pharmacy benefit manager affiliate" means a pharmacy or
15	pharmacist that, directly or indirectly, through one or more intermediaries, is
16	owned or controlled by, or is under common ownership or control with, a
17	pharmacy benefit manager.
18	(5) "Drug" or "prescription drug" has the same meaning as "prescription
19	drug" in 26 V.S.A. § 2022 and includes:
20	(A) biological products, as defined in 18 V.S.A. § 4601;

1	(B) medications used to treat complex, chronic conditions, including
2	medications that require administration, infusion, or injection by a health care
3	professional;
4	(C) medications for which the manufacturer or the U.S. Food and
5	Drug Administration requires exclusive, restricted, or limited distribution; and
6	(D) medications with specialized handling, storage, or inventory
7	reporting requirements.
8	* * *
9	(b) A health insurer and or pharmacy benefit manager doing business in
10	Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36
11	to fill prescriptions for all prescription drugs in the same manner and at the
12	same level of reimbursement as they are filled by mail order pharmacies any
13	other pharmacist or pharmacy, including a mail-order pharmacy or a pharmacy
14	benefit manager affiliate, with respect to the quantity of drugs or days' supply
15	of drugs dispensed under each prescription.
16	(c) Notwithstanding any provision of a health insurance plan to the
17	contrary, if a health insurance plan provides for payment or reimbursement that
18	is within the lawful scope of practice of a pharmacist, the insurer may provide
19	payment or reimbursement for the service when the service is provided by a
20	pharmacist.

1	(d)(1) A health insurer or pharmacy benefit manager shall permit a
2	beneficiary of a plan offered by the health insurer to fill a prescription for a
3	drug at the in-network pharmacy of the beneficiary's choice and, except with
4	respect to pharmacies owned or operated, or both, by a health care facility, as
5	defined in 18 V.S.A. § 9432, shall not impose differential cost-sharing
6	requirements based on the choice of pharmacy or otherwise promote the use of
7	one pharmacy over another.
8	(2) A health insurer or pharmacy benefit manager shall permit a
9	participating network pharmacy to perform all pharmacy services within the
10	lawful scope of the profession of pharmacy as set forth in 26 V.S.A.
11	chapter 36.
12	(3) A health insurer or pharmacy benefit manager shall not do any of the
13	following:
14	(A) Require a covered individual, as a condition of payment or
15	reimbursement, to purchase pharmacist services, including prescription drugs,
16	exclusively through a mail-order pharmacy or a pharmacy benefit manager
17	affiliate.
18	(B) Offer or implement plan designs that require a covered individual
19	to use a mail-order pharmacy or a pharmacy benefit manager affiliate.

1	(C) Order a covered individual, orally or in writing, including
2	through online messaging, to use a mail-order pharmacy or a pharmacy benefit
3	manager affiliate.
4	(D) Establish network requirements that are more restrictive than or
5	inconsistent with State or federal law, rules adopted by the Board of Pharmacy,
6	or guidance provided by the Board of Pharmacy or by drug manufacturers that
7	operate to limit or prohibit a pharmacy or pharmacist from dispensing or
8	prescribing drugs.
9	(E) Offer or implement plan designs that increase plan or patient
10	costs if the covered individual chooses not to use a mail-order pharmacy or a
11	pharmacy benefit manager affiliate. The prohibition in this subdivision (E)
12	includes requiring a covered individual to pay the full cost for a prescription
13	drug when the covered individual chooses not to use a mail-order pharmacy or
14	<u>a pharmacy benefit manager affiliate.</u>
15	(4) The provisions of this subsection shall not apply to Medicaid.
16	Fourth: By adding a new section to be Sec. 4a to read as follows:
17	Sec. 4a. 18 V.S.A. chapter 91, subchapter 5 is added to read:
18	Subchapter 5. Preferential Drug Pricing
19	<u>§ 4671. INTERFERENCE WITH PREFERENTIAL DRUG PRICING</u>
20	PROGRAMS PROHIBITED

1	(a) A hospital or health clinic in this State that is entitled to preferential
2	pricing on outpatient prescription drugs under federal or State law or by
3	contract may purchase such drugs at preferential prices and arrange for their
4	shipment to a duly licensed pharmacy under contract with the hospital or clinic
5	for purposes of dispensing the drugs on the hospital's or clinic's behalf.
6	(b) No manufacturer or supplier of outpatient prescription drugs for which
7	a hospital or health clinic in this State is entitled to preferential pricing under
8	federal or State law or by contract shall deny shipment of such drugs to the
9	hospital's or clinic's contract pharmacy or place conditions or restrictions on
10	the sale of the drugs.
11	Fifth: In Sec. 5, Department of Financial Regulation; pharmacy benefit
12	management; report, in subsection (a), by adding a new subdivision to be
13	subdivision (3) to read as follows:
14	(3) the cost impacts of pharmacy benefit manager licensure and related
15	regulatory measures in other states that have enacted such legislation;
16	and by renumbering the remaining subdivisions to be numerically correct
17	
18	(Committee vote:)
19	
20	Senator
21	FOR THE COMMITTEE

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