

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 (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 a pharmacy benefit manager affiliate.

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 § 4671. INTERFERENCE WITH PREFERENTIAL DRUG PRICING

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

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18 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE