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H.353

Senator Cummings moves that the report of the Committee on Health and Welfare be amended by striking out Secs. 4, 8 V.S.A. § 4089j, and 5, Department of Financial Regulation; pharmacy benefit management; report, in their entireties and inserting in lieu thereof new Secs. 4 and 5 to read as follows:

Sec. 4. Sec. 4. 8 V.S.A. § 4089j is amended to read:

§ 4089j. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

* * *

(d)(1) A health insurer or pharmacy benefit manager shall not, by contract, written policy, or written procedure, require that a pharmacy designated by the health insurer or pharmacy benefit manager dispense a medication directly to a patient with the expectation or intention that the patient will transport the medication to a health care setting for administration by a health care professional.

(2) A health insurer or pharmacy benefit manager shall not, by contract, written policy, or written procedure, require that a pharmacy designated by the health insurer or pharmacy benefit manager dispense a medication directly to a health care setting for a health care professional to administer to a patient.

1 Sec. 5. DEPARTMENT OF FINANCIAL REGULATION; PHARMACY
2 BENEFIT MANAGEMENT; REPORTS

3 (a) The Department of Financial Regulation, in collaboration with the
4 Office of Professional Regulation, including the Board of Pharmacy, and the
5 Department of Vermont Health Access and in consultation with other
6 interested stakeholders, shall consider:

7 (1) whether pharmacy benefit managers should be required to be
8 licensed to operate in this State;

9 (2) whether pharmacy benefit managers should be prohibited from
10 conducting or participating in spread pricing;

11 (3) the cost impacts of pharmacy benefit manager licensure and related
12 regulatory measures in other states that have enacted such legislation;

13 (4) whether any amendments to the Board of Pharmacy’s rules are
14 needed to reflect necessary distinctions or appropriate limitations on
15 pharmacist scope of practice;

16 (5) whether health insurers and pharmacy benefit managers should be
17 required to permit a participating network pharmacy to perform all pharmacy
18 services within the lawful scope of the profession of pharmacy as set forth in
19 26 V.S.A. chapter 36;

1 (6) whether there should be a minimum dispensing fee that pharmacy
2 benefit managers and health insurers must pay to pharmacies and pharmacists
3 for dispensing prescription drugs;

4 (7) how a pharmacy should be reimbursed for a claim if a pharmacy
5 benefit manager denies a pharmacy’s appeal in whole or in part, including
6 whether the pharmacy should be allowed to submit a claim to the health insurer
7 for the balance between the pharmacy benefit manager’s reimbursement and
8 the pharmacy’s reasonable acquisition cost plus a dispensing fee;

9 (8) whether there is a problem in Vermont of pharmacies soliciting
10 health insurance plan beneficiaries directly to market the pharmacy’s services
11 and, if so, how best to address the problem;

12 (9) whether pharmacy benefit managers and health insurers should be
13 required to provide the same level of reimbursement to retail pharmacists for
14 dispensing prescription drugs as for drugs dispensed by all other pharmacies,
15 including pharmacy benefit manager affiliates, and not just mail-order
16 pharmacies as in 8 V.S.A. § 4089j(b);

17 (10) whether pharmacy benefit managers and health insurers should be
18 prohibited from one or more of the following:

19 (A) requiring a covered individual, as a condition of payment or
20 reimbursement, to purchase pharmacist services, including prescription drugs,

1 exclusively through a mail-order pharmacy or a pharmacy benefit manager
2 affiliate;

3 (B) offering or implementing plan designs that require a covered
4 individual to use a mail-order pharmacy or a pharmacy benefit manager
5 affiliate;

6 (C) ordering a covered individual, orally or in writing, including
7 through online messaging, to use a mail-order pharmacy or a pharmacy benefit
8 manager affiliate;

9 (D) establishing network requirements that are more restrictive than
10 or inconsistent with State or federal law, rules adopted by the Board of
11 Pharmacy, or guidance provided by the Board of Pharmacy or by drug
12 manufacturers that operate to limit or prohibit a pharmacy or pharmacist from
13 dispensing or prescribing drugs; or

14 (E) offering or implementing plan designs that increase plan or
15 patient costs if the covered individual chooses not to use a mail-order
16 pharmacy or a pharmacy benefit manager affiliate, including requiring a
17 covered individual to pay the full cost for a prescription drug when the covered
18 individual chooses not to use a mail-order pharmacy or a pharmacy benefit
19 manager affiliate; and

1 (11) other issues relating to pharmacy benefit management and its
2 effects on Vermonters, on pharmacies and pharmacists, and on health
3 insurance in this State.

4 (b)(1) On or before January 15, 2023, the Department of Financial
5 Regulation shall provide an update on its findings and recommendations to
6 date regarding the issues described in subsection (a) of this section to the
7 House Committee on Health Care and the Senate Committees on Health and
8 Welfare and on Finance.

9 (2) On or before January 15, 2024, the Department of Financial
10 Regulation shall provide its final findings and recommendations regarding the
11 issues described in subsection (a) of this section to the House Committee on
12 Health Care and the Senate Committees on Health and Welfare and on
13 Finance.