

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 (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. 8 V.S.A. § 4089k is added to read:

18 § 4089k. PRESCRIPTION DRUGS DISPENSED BY HEALTH INSURER-

19 DESIGNATED PHARMACIES FOR ADMINISTRATION TO

20 PATIENTS IN A HEALTH CARE SETTING

21 (a) As used in this section:

1 (1) “Health care professional” means an individual licensed to practice
2 medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a
3 naturopathic physician pursuant to 26 V.S.A. chapter 81, an individual licensed
4 as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed
5 as an advanced practice registered nurse under 26 V.S.A. chapter 28.

6 (2) “Health care setting” means a health care professional’s office or a
7 hospital or clinic at which a health care professional practices.

8 (3) “Health insurer” has the same meaning as in 18 V.S.A. § 9402.

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

14 (2)(A) A health insurer may enter into an agreement with a health care
15 professional under which a pharmacy designated by the health insurer
16 dispenses one or more medications directly to a specific patient for the patient
17 to transport to a health care setting for the health care professional to
18 administer to the patient.

19 (B) A health insurer that enters into an agreement pursuant to this
20 subdivision (2) shall attest to the Department of Financial Regulation, in a
21 form and manner determined by the Department, that:

- 1 (i) the health insurer provides an expedited, patient-specific
2 exception process for cases in which the health care professional certifies that
3 it is unsafe for an individual patient to receive medication directly from the
4 health insurer-designated pharmacy;
- 5 (ii) the health insurer-designated pharmacy provides for same-day
6 delivery of medications to patients;
- 7 (iii) the health insurer-designated pharmacy is accredited by a
8 national pharmacy accreditation organization;
- 9 (iv) the health insurer-designated pharmacy has the ability to
10 deliver medications to the patient’s home in a clinically appropriate dosage and
11 in a ready-to-administer form;
- 12 (v) the health insurer-designated pharmacy utilizes cold chain
13 logistics or other means to ensure that each medication remains at the
14 appropriate temperature through all stages of supply, storage, and delivery;
- 15 (vi) the health insurer-designated pharmacy provides a
16 medication’s pedigree to certify to the health care professional that the
17 medication was handled appropriately throughout the supply chain;
- 18 (vii) the health insurer-designated pharmacy demonstrates
19 expertise and reliability in risk evaluation and mitigation strategy that comply
20 with U.S. Food and Drug Administration reporting requirements; and

1 (viii) the health insurer or the health insurer-designated pharmacy,
2 or both, make access to a pharmacist or nurse available 24 hours per day, seven
3 days per week.

4 (c)(1) A health insurer shall not, by contract, written policy, or written
5 procedure, require that a pharmacy designated by the health insurer dispense a
6 medication directly to a health care setting for a health care professional to
7 administer to a patient.

8 (2)(A) A health insurer may enter into an agreement with a health care
9 professional under which a pharmacy designated by the health insurer
10 dispenses one or more medications for a specific patient directly to a health
11 care setting for the health care professional to administer to the patient.

12 (B) A health insurer that enters into an agreement pursuant to this
13 subdivision (2) shall attest to the Department of Financial Regulation, in a
14 form and manner determined by the Department, that:

15 (i) the health insurer provides an expedited, patient-specific
16 exception process for cases in which a health care professional certifies that it
17 is unsafe for an individual patient’s medication to come directly from the
18 health insurer-designated pharmacy;

19 (ii) the health insurer-designated pharmacy provides for same-day
20 delivery of medications from the health insurer-designated pharmacy to the
21 health care setting;

1 (iii) the health insurer-designated pharmacy is accredited by a
2 national pharmacy accreditation organization;

3 (iv) the health insurer-designated pharmacy has the ability to
4 deliver medications to the health care setting in a clinically appropriate dosage
5 and in a ready-to-administer form;

6 (v) the health insurer-designated pharmacy utilizes cold chain
7 logistics or other means to ensure that each medication remains at the
8 appropriate temperature through all stages of supply, storage, and delivery;

9 (vi) the health insurer-designated pharmacy provides a
10 medication’s pedigree to certify to the health care professional that the
11 medication was handled appropriately throughout the supply chain;

12 (vii) the health insurer-designated pharmacy demonstrates
13 expertise and reliability in risk evaluation and mitigation strategy that comply
14 with U.S. Food and Drug Administration reporting requirements;

15 (viii) the health insurer or the health insurer-designated pharmacy,
16 or both, make access to a pharmacist available 24 hours per day, seven days
17 per week; and

18 (ix) the health insurer offers payment policies that reimburse for
19 office-administered medications at the same rates, regardless of whether the
20 medications were obtained from a pharmacy designated by the insurer or by
21 the health care professional or health care setting, which payment shall include

1 the costs for the health care professional or health care setting to intake, store,
2 compound, and dispose of the medications.

3 (d) A health insurer shall not, by contract, written policy, or written
4 procedure, require:

5 (1) sterile compounding by a health care professional in a health care
6 setting without providing reimbursement to the health care professional for that
7 service; or

8 (2) a medication with a patient-specific dosage requirement to be based
9 on lab or test results on the day of the patient visit to be distributed from a
10 health insurer-designated pharmacy to a health care setting for administration.

11 (e) A health insurer may offer coverage for, but shall not require the use of:

12 (1) a home-infusion pharmacy to dispense sterile intravenous drugs
13 prescribed by a treating health care professional to a patient in the patient's
14 home; or

15 (2) an infusion site other than the treating health care professional's
16 office or a hospital or clinic at which the health care professional practices.

17 Fifth: By adding a new section to be Sec. 4b to read as follows:

18 Sec. 4b. 18 V.S.A. chapter 91, subchapter 5 is added to read:

19 Subchapter 5. Preferential Drug Pricing

20 § 4671. INTERFERENCE WITH PREFERENTIAL DRUG PRICING

21 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 Sixth: 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: _____)

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Senator _____

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FOR THE COMMITTEE