No. 55. An act relating to the 340B prescription drug pricing program.

(H.266)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. chapter 91, subchapter 6 is added to read:

Subchapter 6. 340B Drug Pricing Program

§ 4681. DEFINITIONS

As used in this subchapter:

(1) "340B contract pharmacy" means a pharmacy that has a contract with a 340B covered entity to receive and dispense 340B drugs to the 340B covered entity's patients on the covered entity's behalf.

(2) "340B covered entity" means an entity participating or authorized to participate in the federal 340B drug pricing program, as described in 42 U.S.C. § 256b. The term includes a 340B covered entity's pharmacy.

(3) "340B drug" means a drug that has been subject to any offer for reduced prices by a manufacturer pursuant to 42 U.S.C. § 256b and is purchased by a 340B covered entity.

(4) "Discount" means a reduction in the amount a 340B covered entity is charged for a 340B drug at the time of purchase.

(5) "Manufacturer" has the same meaning as in 26 V.S.A. § 2022.

(6) "Pharmacy" means a place licensed by the Vermont Board of Pharmacy at which drugs, chemicals, medicines, prescriptions, and poisons are compounded, dispensed, or sold at retail.

(7) "Pharmacy benefit manager" has the same meaning as in section 3602 of this title.

(8) "Rebate" means a discount in which the terms are fixed and are disclosed in writing to a 340B covered entity at the time of the initial purchase of the 340B drug to which the discount applies, but which discount is not applied at the time of purchase.

§ 4682. DISCRIMINATION AGAINST 340B ENTITIES PROHIBITED

(a) A manufacturer or its agent shall not deny, restrict, prohibit, or otherwise interfere with, directly or indirectly, the acquisition of a 340B drug by or delivery of a 340B drug to a 340B contract pharmacy on behalf of a 340B covered entity unless receipt by the 340B contract pharmacy is prohibited by the U.S. Department of Health and Human Services.

(b) A manufacturer or its agent shall not directly or indirectly require a 340B covered entity to submit any claims, utilization, encounter, purchase, or other data as a condition for allowing the acquisition of a 340B drug by or delivery of a 340B drug to a 340B contract pharmacy unless the claims or utilization data sharing is required by the U.S. Department of Health and Human Services.

(c) A manufacturer or its agent shall not interfere with the ability of a pharmacy contracted with a 340B covered entity to dispense 340B drugs to eligible patients of the 340B covered entity.

(d) A manufacturer or its agent shall offer or otherwise make available 340B drug pricing to a 340B covered entity or 340B contract pharmacy in the form of a discount at the time of purchase and shall not offer or otherwise make available 340B drug pricing in the form of a rebate.

§ 4683. MEDICAID UNAFFECTED

Nothing in this subchapter shall be deemed to apply to the Vermont Medicaid program as payor.

§ 4684. VIOLATIONS

(a) A 340B covered entity, 340B contract pharmacy, or other person injured by a manufacturer's or its agent's violation of this subchapter may bring an action in Superior Court for injunctive relief, compensatory and punitive damages, costs and reasonable attorney's fees, and other appropriate relief.

(b) A violation occurs each time a prohibited act is committed. For purposes of section 4682 of this subchapter, a prohibited act is defined as each package of 340B drugs that is subject to a discriminatory action by a manufacturer or its agent.

§ 4685. NO CONFLICT WITH FEDERAL LAW

Nothing in this subchapter shall be construed or applied to conflict with or to be less restrictive than federal law for a person regulated by this subchapter.

Sec. 2. 18 V.S.A. § 9406 is added to read:

§ 9406. REPORTING ON PARTICIPATION IN 340B DRUG PRICING PROGRAM

(a) Annually on or before January 31, each hospital participating in the federal 340B drug pricing program established by 42 U.S.C. § 256b shall submit to the Green Mountain Care Board, in a form and manner prescribed by the Board, a report detailing the hospital's participation in the program during the previous hospital fiscal year, which report shall be posted on the Green Mountain Care Board's website and which shall contain at least the following information:

(1)(A) For prescription drugs that the hospital or any entity acting on behalf of the hospital obtained through the 340B program and dispensed or administered to patients during the previous calendar year:

(i) the aggregated acquisition cost for all such prescription drugs; and

(ii) the aggregated payment amount that the hospital received for all such prescription drugs, with information reported separately for each of the following distribution channels:

(I) dispensed drugs from an in-house pharmacy;

(II) dispensed drugs from a contract pharmacy;

(III) administered drugs paid separately; and

(IV) administered drugs paid by bundled payments.

(B) For administered drugs for which payment was bundled with payment for other services, as set forth in subdivision (A)(ii)(IV) of this subdivision (1), the hospital shall estimate the payment amount by comparing the actual acquisition cost for a drug to the wholesale acquisition cost for that drug.

(2) The aggregated payment amount that the hospital made to pharmacies with which the hospital contracted to dispense drugs to its patients under the 340B program during the previous hospital fiscal year.

(3) The aggregated payment amount that the hospital made to any other outside vendor for managing, administering, or facilitating any aspect of the hospital's 340B drug program during the previous hospital fiscal year.

(4) A description of the ways in which the hospital uses revenue from its participation in the 340B program to benefit its community through programs and services funded in whole or in part by revenue from the 340B program, including services that support community access to care that the hospital could not continue without this revenue.

(5) A description of the hospital's internal review and oversight of its participation in the 340B program in compliance with the U.S. Department of Health and Human Services, Health Resources and Services Administration's 340B program rules and guidance.

(b) In addition to the vendor information required pursuant to subdivision (a)(3) of this section, each hospital shall also provide to the Board a list of the

names of all vendors that managed, administered, or facilitated any aspect of the hospital's 340B program during the previous calendar year, along with a brief description of the work performed by each vendor. The vendor information reported pursuant to this subsection shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the Board shall provide the information to the Office of the Health Care Advocate, which shall not further disclose this confidential information.

Sec. 3. REPEAL

Sec. 2 (18 V.S.A. § 9406; reporting on participation in 340B drug pricing program) is repealed on January 1, 2031.

Sec. 4. 18 V.S.A. § 9407 is added to read:

§ 9407. OUTPATIENT PRESCRIPTION DRUGS; LIMITATIONS ON HOSPITAL CHARGES

(a)(1) A hospital shall not submit a claim to a health insurer for reimbursement of a prescription drug administered in an outpatient or office setting in an amount that exceeds 120 percent of the average sales price (ASP), as calculated by the Centers for Medicare and Medicaid Services, for any drug for which the hospital charged any health insurer more than 120 percent of the ASP in effect as of April 1, 2025.

(2) For any prescription drug administered in an outpatient or office setting for which a hospital charged a health insurer 120 percent or less of the

ASP in effect as of April 1, 2025, the hospital shall not charge the health insurer a greater percentage of the ASP, as calculated by the Centers for Medicare and Medicaid, for that drug than the percentage of the ASP that the hospital charged the health insurer as of April 1, 2025.

(3) A hospital shall update the ASP for each drug annually on January 1 and July 1 based on the Centers for Medicare and Medicaid Services' ASP calculations for the most recent calendar quarter.

(b)(1) The purpose of this section is to reduce health care costs. A hospital shall not charge or collect from the patient or health insurer any amount for a prescription drug administered in an outpatient or office setting that exceeds the amounts set forth in subsection (a) of this section or increase the amounts the hospital charges for other prescription drugs, procedures, tests, imaging, or other health care goods or services in an effort to offset revenue reduced as a result of implementing this section.

(2) If a hospital demonstrates to the Green Mountain Care Board in its budget submissions pursuant to subchapter 7 of this chapter that the price cap set forth in subsection (a) of this section is having a negative impact on access to care, the quality of care, or the sustainability of rural health care services, or a combination of these, the hospital may propose to increase the commercial reimbursement rates for one or more of its service lines, such as primary care, and the Board shall consider both the demonstrated impact and the proposed increase to reimbursement rates.

(c) The provisions of this section shall remain in effect unless and until the Green Mountain Care Board establishes a different reference-based price pursuant to section 9376 of this title that applies to prescription drugs administered in an outpatient or office setting.

(d) This section shall not apply to an independent hospital that is designated as a critical access hospital and that is not affiliated with another hospital or hospital network based in or outside of Vermont.

Sec. 5. [Deleted.]

Sec. 6. EFFECTIVE DATES

(a) Sec. 4 (18 V.S.A. § 9407; outpatient prescription drugs; limitations on hospital charges) shall take effect on January 1, 2026.

(b) The remainder of this act shall take effect on passage, with the first report under Sec. 2 (18 V.S.A. § 9406) due on or before January 31, 2026.

Date Governor signed bill: June 11, 2025