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H.266

An act relating to the 340B prescription drug pricing program

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.

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

4 (7) “Pharmacy benefit manager” has the same meaning as in section
5 3602 of this title.

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

10 § 4682. DISCRIMINATION AGAINST 340B ENTITIES PROHIBITED

11 (a) A manufacturer or its agent shall not deny, restrict, prohibit, or
12 otherwise interfere with, directly or indirectly, the acquisition of a 340B drug
13 by or delivery of a 340B drug to a 340B contract pharmacy on behalf of a
14 340B covered entity unless receipt by the 340B contract pharmacy is
15 prohibited by the U.S. Department of Health and Human Services.

16 (b) A manufacturer or its agent shall not directly or indirectly require a
17 340B covered entity to submit any claims, utilization, encounter, purchase, or
18 other data as a condition for allowing the acquisition of a 340B drug by or
19 delivery of a 340B drug to a 340B contract pharmacy unless the claims or
20 utilization data-sharing is required by the U.S. Department of Health and
21 Human Services.

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

4 (d) A manufacturer or its agent shall offer or otherwise make available
5 340B drug pricing to a 340B covered entity or 340B contract pharmacy in the
6 form of a discount at the time of purchase and shall not offer or otherwise
7 make available 340B drug pricing in the form of a rebate.

8 § 4683. MEDICAID UNAFFECTED

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

11 § 4684. VIOLATIONS

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

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

1 § 4685. NO CONFLICT WITH FEDERAL LAW

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

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

5 § 9406. REPORTING ON PARTICIPATION IN 340B DRUG PRICING
6 PROGRAM

7 Annually on or before January 31, each hospital participating in the federal
8 340B drug pricing program established by 42 U.S.C. § 256b shall submit to the
9 Green Mountain Care Board a report detailing the hospital's participation in
10 the program during the previous hospital fiscal year, which report shall be
11 posted on the Green Mountain Care Board's website and which shall contain at
12 least the following information:

13 (1) The annual estimated savings to the hospital from participating in the
14 340B program, comparing the acquisition price of drugs under the 340B
15 program to group purchasing organization pricing. If group purchasing
16 organization pricing is not available for a specific drug, the hospital shall
17 compare the acquisition price under the 340B program to the price from
18 another generally accepted pricing source.

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

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

4 (4) The number of claims for all prescription drugs the hospital obtained
5 through the 340B program during the previous hospital fiscal year.

6 (5) A description of the ways in which the hospital uses savings from its
7 participation in the 340B program to benefit its community through programs
8 and services funded in whole or in part by savings from the 340B program,
9 including services that support community access to care that the hospital
10 could not continue without these savings.

11 (6) A description of the hospital's internal review and oversight of its
12 participation in the 340B program in compliance with the U.S. Department of
13 Health and Human Services, Health Resources and Services Administration's
14 340B program rules and guidance.

15 Sec. 3. REPEAL

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

18 Sec. 4. EFFECTIVE DATE

19 This act shall take effect on passage, with the first report under Sec. 2 (18
20 V.S.A. § 9406) due on or before January 31, 2026.