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H.611

An act relating to miscellaneous provisions affecting the Department of Vermont Health Access

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

Sec. 1. 18 V.S.A. § 4635 is amended to read:

§ 4635. PRESCRIPTION DRUG COST TRANSPARENCY

(a) As used in this section:

(1) “Health insurer” means a health insurer, as defined in section 9402 of this title, with more than 5,000 covered lives in this State for major medical health insurance, as defined in 8 V.S.A. § 4011. The term does not include Vermont Medicaid.

(2) “Manufacturer” shall have has the same meaning as “pharmaceutical manufacturer” in section 4631a of this title.

~~(2)(3)~~ “Prescription drug” means a drug as defined in 21 U.S.C. § 321.

~~(b)(1)(A) The Department of Vermont Health Access shall create annually a list of 10 prescription drugs on which the State spends significant health care dollars and for which the wholesale acquisition cost has increased by 50 percent or more over the past five years or by 15 percent or more during the previous calendar year, creating a substantial public interest in understanding the development of the drugs’ pricing. The list shall include at least one generic and one brand name drug and shall indicate each of the drugs on the~~

1 list that the Department considers to be specialty drugs. The Department shall  
2 include the percentage of the wholesale acquisition cost increase for each drug  
3 on the list; rank the drugs on the list from those with the largest increase in  
4 wholesale acquisition cost to those with the smallest increase; indicate whether  
5 each drug was included on the list based on its cost increase over the past five  
6 years or during the previous calendar year, or both; and provide the  
7 Department's total expenditure for each drug on the list during the most recent  
8 calendar year.

9 (B) The Department of Vermont Health Access shall create annually  
10 a list of 10 prescription drugs on which the State spends significant health care  
11 dollars and for which the cost to the Department of Vermont Health Access,  
12 net of rebates and other price concessions, has increased by 50 percent or more  
13 over the past five years or by 15 percent or more during the previous calendar  
14 year, creating a substantial public interest in understanding the development of  
15 the drugs' pricing. The list shall include at least one generic and one brand-  
16 name drug and shall indicate each of the drugs on the list that the Department  
17 considers to be specialty drugs. The Department shall rank the drugs on the  
18 list from those with the greatest increase in net cost to those with the smallest  
19 increase and indicate whether each drug was included on the list based on its  
20 cost increase over the past five years or during the previous calendar year, or  
21 both.

1           ~~(C)~~(i) Each health insurer with more than 5,000 covered lives in this  
2           State for major medical health insurance shall create annually a list of 10  
3           prescription drugs on which its health insurance plans spend significant  
4           amounts of their premium dollars and for which the cost to the plans, net of  
5           rebates and other price concessions, has increased by 50 percent or more over  
6           the past five years or by 15 percent or more during the previous calendar year,  
7           or both, creating a substantial public interest in understanding the development  
8           of the drugs' pricing. The list shall include at least one generic and one brand-  
9           name drug and shall indicate each of the drugs on the list that the health insurer  
10          considers to be specialty drugs. The health insurer shall rank the drugs on the  
11          list from those with the greatest increase in net cost to those with the smallest  
12          increase and indicate whether each drug was included on the list based on its  
13          cost increase over the past five years or during the previous calendar year, or  
14          both.

15                 ~~(ii)~~(B) Each health insurer creating a list pursuant to subdivision  
16          ~~(i)~~(A) of this subdivision (b)(1)~~(C)~~ shall provide to the Office of the Attorney  
17          General the percentage by which the net cost to its plans increased over the  
18          applicable period or periods for each drug on the list, as well as the insurer's  
19          total expenditure, net of rebates and other price concessions, for each drug on  
20          the list during the most recent calendar year. Information provided to the  
21          Office of the Attorney General pursuant to this subdivision (b)(1)~~(C)~~~~(ii)~~(B) is

1 exempt from public inspection and copying under the Public Records Act and  
2 shall not be released.

3 (2) The ~~Department of Vermont Health Access and the~~ health insurers  
4 shall provide to the Office of the Attorney General and the Green Mountain  
5 Care Board the lists of prescription drugs developed pursuant to ~~subdivisions~~  
6 ~~(1)(A), (B), and (C)(i)~~ subdivision (1) of this subsection annually on or before  
7 June 1. The Office of the Attorney General and the Green Mountain Care  
8 Board shall make all of the information available to the public on their  
9 respective websites.

10 (c)(1)(A) Of the prescription drugs listed by the ~~Department of Vermont~~  
11 ~~Health Access and the~~ health insurers pursuant to ~~subdivisions (b)(1)(B) and~~  
12 ~~(C)~~ subdivision (b)(1) of this section, the Office of the Attorney General shall  
13 identify 15 drugs as follows:

14 (i) of the drugs appearing on more than one payer's list, the Office  
15 of the Attorney General shall identify the top 15 drugs on which the greatest  
16 amount of money was spent across all payers during the previous calendar  
17 year, to the extent information is available; and

18 (ii) if fewer than 15 drugs appear on more than one payer's list,  
19 the Office of the Attorney General shall rank the remaining drugs based on the  
20 amount of money spent by any one payer during the previous calendar year, in

1 descending order, and select as many of the drugs at the top of the list as  
2 necessary to reach a total of 15 drugs.

3 (B) For the 15 drugs identified by the Office of the Attorney General  
4 pursuant to subdivision (A) of this subdivision (c)(1), the Office of the  
5 Attorney General shall require the manufacturer of each such drug to provide  
6 all of the following:

7 (i) Justification for the increase in the net cost of the drug to ~~the~~  
8 ~~Department of Vermont Health Access, to one or more health insurers, or both,~~  
9 which shall be provided to the Office of the Attorney General in a format that  
10 the Office of the Attorney General determines to be understandable and  
11 appropriate and shall be provided in accordance with a timeline specified by  
12 the Office of the Attorney General. The manufacturer shall submit to the  
13 Office of the Attorney General all relevant information and supporting  
14 documentation necessary to justify the manufacturer's net cost increase to ~~the~~  
15 ~~Department of Vermont Health Access, to one or more health insurers, or both~~  
16 during the identified period of time, including:

17 (I) each factor that specifically caused the net cost increase to  
18 ~~the Department of Vermont Health Access, to one or more health insurers, or~~  
19 ~~both~~ during the specified period of time;

20 \* \* \*

1 Sec. 2. 18 V.S.A. § 4682 is amended to read:

2 § 4682. DISCRIMINATION AGAINST 340B ENTITIES PROHIBITED

3 \* \* \*

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. [Repealed.]~~

8 Sec. 3. 33 V.S.A. § 402 is amended to read:

9 § 402. MEDICAID AND EXCHANGE ADVISORY COMMITTEE

10 (a) ~~A~~ The Medicaid and Exchange Advisory Committee is created for the  
11 purpose of advising the Commissioner of Vermont Health Access with respect  
12 to policy development and program administration for the Vermont Health  
13 Benefit Exchange, Medicaid, and Medicaid-funded programs, consistent with  
14 the requirements of federal law.

15 (b)(1) The Commissioner of Vermont Health Access shall appoint  
16 members of the Advisory Committee established by this section, who shall  
17 serve staggered three-year terms. The total membership of the Advisory  
18 Committee shall be at least 22 members and shall include individuals who are  
19 also members of the Beneficiary Advisory Committee, as required by 42  
20 C.F.R. § 431.12. The Commissioner may remove members of the Committee

1 who fail to attend three consecutive meetings and may appoint replacements.

2 ~~The Commissioner may reappoint members to serve more than one term.~~

3 (2)(A) The Commissioner of Vermont Health Access shall appoint one  
4 representative of health insurers licensed to do business in Vermont to serve on  
5 the Advisory Committee. The Commissioner of Health shall also serve on the  
6 Advisory Committee.

7 (B) Of the remaining members of the Advisory Committee, one-  
8 quarter of the members shall be from each of the following constituencies:

9 (i) beneficiaries of Medicaid or Medicaid-funded programs;

10 (ii) representatives of those eligible for or enrolled in qualified  
11 health plans, such as individuals, self-employed individuals, health insurance  
12 brokers and agents, and ~~representatives of businesses eligible for or enrolled in~~  
13 ~~the Vermont Health Benefit Exchange~~ small business owners and employees;

14 (iii) advocates for consumer organizations; and

15 (iv) health care professionals and representatives from a broad  
16 range of health care professionals.

17 \* \* \*

18 Sec. 4. 33 V.S.A. § 1813 is amended to read:

19 § 1813. REFLECTIVE HEALTH BENEFIT PLANS

20 (a)(1) In the event that federal cost-sharing reduction payments to insurers  
21 are suspended or discontinued, registered carriers may offer to individuals ~~and~~

1 ~~employees of small employers~~ nonqualified reflective health benefit plans that  
2 do not include funding to offset the loss of the federal cost-sharing reduction  
3 payments. These plans shall be similar to, but contain at least one variation  
4 from, qualified health benefit plans offered through the Vermont Health  
5 Benefit Exchange that include funding to offset the loss of the federal cost-  
6 sharing reduction payments.

7 \* \* \*

8 Sec. 5. 33 V.S.A. § 2031 is amended to read:

9 § 2031. CREATION OF CLINICAL UTILIZATION REVIEW BOARD

10 (a) ~~No later than June 15, 2010, the~~ The Department of Vermont Health  
11 Access shall ~~create a~~ maintain the Clinical Utilization Review Board to  
12 examine existing medical services, emerging technologies, and relevant  
13 evidence-based clinical practice guidelines and make recommendations to the  
14 Department regarding coverage, unit limitations, place of service, and  
15 appropriate medical necessity of services in the State's Medicaid programs.

16 (b) The Board shall comprise a minimum of 10 members with diverse  
17 medical experience, to be appointed by the Governor upon recommendation of  
18 the Commissioner of Vermont Health Access. The Board shall solicit  
19 additional input as needed from individuals with expertise in areas of relevance  
20 to the Board's deliberations. The Chief Medical Director ~~Director~~ Officer of the  
21 Department of Vermont Health Access shall serve as the State's liaison to the

1 Board. Board member terms ~~shall~~ may be staggered, ~~but in no event longer~~  
2 ~~than three years from the date of appointment. The~~ and the Board shall meet at  
3 least quarterly, ~~provided that the Board shall meet no less frequently than once~~  
4 ~~per month for the first six months following its formation.~~

5 \* \* \*

6 Sec. 6. 33 V.S.A. § 2072 is amended to read:

7 § 2072. GENERAL ELIGIBILITY

8 (a) An individual shall be eligible for assistance under this subchapter if the  
9 individual:

10 (1) is a resident of Vermont at the time of application for benefits;

11 (2) is at least 65 years of age or is an individual with disabilities as  
12 defined in subdivision 2071(1) of this title; and

13 (3) has a household income, ~~when calculated using modified adjusted~~  
14 ~~gross income as defined in 26 U.S.C. § 36B(d)(2)(B), no~~ not greater than 225  
15 percent of the federal poverty level.

16 \* \* \*

17 Sec. 7. INCREASE TO PREPAID BURIAL ARRANGEMENTS FOR

18 MEDICAID ELIGIBILITY PURPOSES; RULEMAKING

19 (a) Subject to approval from the Centers for Medicare and Medicaid  
20 Services, the Agency of Human Services shall amend its rules and procedures  
21 allowing Medicaid applicants and recipients to preserve monies for funeral and

1 burial expenses to increase from \$10,000.00 to \$15,000.00 the limit on the  
2 amount that may be preserved through an irrevocable prepaid funeral  
3 arrangement, as described in 26 V.S.A. § 1271, provided that:

4 (1) the written contract for the arrangement, as described in 26 V.S.A.  
5 § 1273, includes a provision specifying that Vermont Medicaid shall receive  
6 all amounts remaining after payment of the deceased individual's expenses up  
7 to an amount equal to the total Medicaid amount paid on behalf of the  
8 deceased individual; and

9 (2) in the event that the person responsible for making the funeral  
10 arrangements for the deceased individual fails to have funeral services  
11 provided, after the retention of assets by the funeral director as set forth in  
12 26 V.S.A. § 1274(c), Vermont Medicaid shall receive all amounts remaining  
13 up to an amount equal to the total Medicaid amount paid on behalf of the  
14 deceased individual.

15 (b) Subject to approval from the Centers for Medicare and Medicaid  
16 Services, the Agency's amended rules and procedures shall apply to prepaid  
17 funeral arrangements entered into on or after July 1, 2027.

18 Sec. 8. 2025 Acts and Resolves No. 50, Sec. 7 is amended to read:

19 Sec. 7. STATE PLAN AMENDMENT

20 Not later than July 1, ~~2026~~ 2027, the Department of Vermont Health Access  
21 shall seek a state plan amendment from the Centers for Medicare and Medicaid

1 Services to allow Vermont's Medicaid program to provide coverage for doula  
2 services in accordance with 33 V.S.A. § 1901n, as added by this act.

3 Sec. 9. 2025 Acts and Resolves No. 50, Sec. 8 is amended to read:

4 Sec. 8. EFFECTIVE DATES

5 (a) Secs. 1–4 (establishing certification program for community-based  
6 perinatal doulas) shall take effect on July 1, 2026, provided that the Director of  
7 the Office of Professional Regulation shall commence the rulemaking process  
8 prior to that date in order to ensure that the rules will be in effect on July 1,  
9 2026.

10 (b) Sec. 5 (33 V.S.A. § 1901n; Medicaid coverage for doula services) shall  
11 take effect on the later of July 1, ~~2026~~ 2027, or approval of the state plan  
12 amendment requested pursuant to Sec. 7 of this act.

13 (c) The remaining sections shall take effect on passage.

14 Sec. 10. EFFECTIVE DATE

15 This act shall take effect on July 1, 2026.