

SENATE BILL 648

By Robinson

AN ACT to amend Tennessee Code Annotated, Title 8; Title 53; Title 56, Chapter 7; Title 63; Title 68 and Title 71, Chapter 5, relative to insulin.

WHEREAS, it is reported that more than 650,000 adult Tennesseans have been diagnosed with diabetes, and estimated that another 250,000 Tennesseans live with undiagnosed diabetes; and

WHEREAS, the 2020 America's Health Ranking's Annual Report ranked Tennessee forty-seventh in the nation in diabetes prevalence; and

WHEREAS, every Tennessean with type 1 diabetes and many with type 2 diabetes relies on daily doses of insulin to survive; and

WHEREAS, insulin prices rose by 45% between 2014 and 2017, and over the last fourteen years, the price of insulin has risen by 555%, adjusted for inflation; and

WHEREAS, one in four type 1 diabetics have reported insulin underuse due to the high cost of insulin; and

WHEREAS, it is important to enact policies to reduce the costs for Tennesseans with diabetes to obtain life-saving and life-sustaining insulin; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-7-2605(a), is amended by adding the following appropriately designated subdivision:

() "Prescription insulin drug" means a prescription drug, as defined in § 63-10-204, that contains insulin and is used to treat diabetes;

SECTION 2. Tennessee Code Annotated, Section 56-7-2605(f), is amended by designating the existing language as subdivision (1) and adding the following subdivisions:

(2)

(A) Notwithstanding subdivision (f)(1), a health insurance carrier that provides coverage for prescription insulin drugs pursuant to the terms of a policy, program, or contract of insurance shall cap the total amount that a covered patient with diabetes is required to pay for a covered prescription insulin drug at an amount not to exceed one hundred dollars (\$100) per thirty-day supply of insulin, regardless of the amount or type of insulin needed to fill the prescription of the covered patient with diabetes.

(B) This subdivision (f)(2) applies to a state or local insurance program, under title 8, chapter 27, and a managed care organization contracting with the state to provide insurance through the TennCare program.

(3) This subsection (f) does not prevent a health insurance carrier from reducing a covered patient's cost sharing by an amount greater than the amount specified in subdivision (f)(2)(A).

SECTION 3. Tennessee Code Annotated, Title 68, Chapter 1, Part 1, is amended by adding the following section:

(a) The department of health, in cooperation with the division of consumer affairs of the office of attorney general and reporter, shall investigate pricing of prescription insulin drugs, as defined in § 56-7-2605, made available to consumers in this state to:

(1) Ensure adequate consumer protection in pricing of prescription insulin drugs; and

(2) Determine whether additional consumer protections are needed.

(b)

(1) As part of the investigation required by this section, the department of health and the division of consumer affairs shall gather, compile, and analyze

information concerning the organization, business practices, pricing information, data, reports, or other information that the department and division find necessary to fulfill the requirements of this section from companies engaged in the manufacture or sale of prescription insulin drugs. The department and division shall also consider publicly available information related to drug pricing.

(2) Except as provided in subdivision (b)(3), if necessary to fulfill the reporting requirements of this section, the department of health and the division of consumer affairs may utilize the investigative powers vested in those entities by law to require a state department; health insurance carrier, as defined in § 56-7-2605; pharmacy benefits manager, as defined in § 56-7-3102; or manufacturer of prescription insulin drugs that are made available in this state, to furnish materials, answers, data, or other relevant information.

(3) The department of health and the division of consumer affairs shall not compel a person or business to provide trade secrets, as defined in § 47-25-1702.

(c) On or before November 1, 2021, the department of health and the division of consumer affairs shall issue and make available to the public a report detailing the findings from the investigation conducted pursuant to this section. The department and division shall present the report to the governor, the commissioner of commerce and insurance, the speaker of the senate, and the speaker of the house of representatives.

The report must include:

(1) A summary of insulin pricing practices and variables that contribute to pricing of health insurance coverage, as defined in § 56-7-109;

(2) Public policy recommendations to control and prevent overpricing of prescription insulin drugs made available to consumers in this state;

(3) Recommendations for improvements to the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18; and

(4) Other information the department and division find relevant to the purposes of the investigation.

SECTION 4. Sections 1 and 2 of this act take effect January 1, 2022, the public welfare requiring it, and apply to health insurance plans executed, delivered, issued, amended, or renewed on or after that date. The remainder of this act takes effect upon becoming a law, the public welfare requiring it.