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H.822

Introduced by Representatives Cordes of Lincoln, Briglin of Thetford,
Masland of Thetford, Cina of Burlington, Howard of Rutland
City, Anthony of Barre City, Austin of Colchester, Burke of
Brattleboro, Campbell of St. Johnsbury, Carroll of Bennington,
Chase of Colchester, Chesnut-Tangerman of Middletown
Springs, Christensen of Weathersfield, Christie of Hartford,
Colburn of Burlington, Colston of Winooski, Copeland Hanzas
of Bradford, Donovan of Burlington, Durfee of Shaftsbury,
Fegard of Berkshire, Gardner of Richmond, Gonzalez of
Winooski, Hango of Berkshire, Hooper of Burlington,
Houghton of Essex, Jerome of Brandon, Kitzmiller of
Montpelier, Lanpher of Vergennes, McCarthy of St. Albans
City, Morgan of Milton, Morris of Springfield, Nicoll of
Ludlow, O'Brien of Tunbridge, Ode of Burlington, O'Sullivan
of Burlington, Page of Newport City, Palasik of Milton, Patt of
Worcester, Smith of Derby, Sullivan of Burlington, Szott of
Barnard, Toof of St. Albans Town, Townsend of South
Burlington, Troiano of Stannard, Walz of Barre City, Wood of
Waterbury, Yacovone of Morristown, and Yantachka of
Charlotte

1 Referred to Committee on

2 Date:

3 Subject: Health; health insurance; prescription drugs; insulin; Attorney

4 General

5 Statement of purpose of bill as introduced: This bill proposes to limit the
6 amount of a beneficiary's out-of-pocket expenses for prescription insulin drugs
7 under a health insurance plan to not more than \$100.00 per 30-day supply. It
8 would also direct the Office of the Attorney General to investigate the pricing
9 of prescription insulin drugs made available to Vermont consumers and report
10 to the General Assembly whether adequate consumer protections exist for the
11 pricing of these drugs or whether additional consumer protections are needed.

12 An act relating to limiting out-of-pocket expenses for prescription insulin
13 drugs

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

15 Sec. 1. 8 V.S.A. § 4089i is amended to read:

16 § 4089i. PRESCRIPTION DRUG COVERAGE

17 * * *

18 (h) A health insurance or other health benefit plan offered by a health
19 insurer or pharmacy benefit manager shall limit a beneficiary's total out-of-
20 pocket responsibility for prescription insulin drugs to not more than \$100.00

1 per 30-day supply, regardless of the amount or type of insulin needed to fill the
2 beneficiary's prescription or the number of prescriptions.

3 (i) As used in this section:

4 * * *

5 (7) "Prescription insulin drug" means a prescription drug that contains
6 insulin and is used to treat diabetes.

7 ~~(i)~~(j) The Department of Financial Regulation shall enforce this section and
8 may adopt rules as necessary to carry out the purposes of this section.

9 Sec. 2. ATTORNEY GENERAL; PRESCRIPTION INSULIN DRUG

10 PRICING; REPORT

11 (a) The Office of the Attorney General shall investigate the pricing of
12 prescription insulin drugs made available to Vermont consumers to determine
13 whether there are adequate consumer protections in the pricing of these drugs
14 or whether additional consumer protections are needed.

15 (b)(1) In its investigation of prescription insulin drug pricing pursuant this
16 section, the Office of the Attorney General shall require entities engaged in the
17 manufacture or sale of prescription insulin drugs to provide information to the
18 Office regarding their organization, business practices, drug pricing, and such
19 other data, reports, or other materials as the Office deems necessary to
20 determine the adequacy of consumer protections in connection with the pricing

1 of prescription insulin drugs. The Office shall also consider relevant, publicly
2 available information regarding prescription drug pricing.

3 (2) Any information provided to the Office of the Attorney General
4 pursuant to this section that is identified by an entity as a trade secret shall,
5 upon confirmation by the Office of the Attorney General that the information
6 meets the definition of a trade secret in 1 V.S.A. § 317(c)(9), be exempt from
7 public inspection and copying under the Public Records Act and shall not be
8 released in a manner that is likely to compromise the proprietary nature of the
9 information. The Office of the Attorney General may aggregate for reporting
10 purposes information that alone would be considered proprietary if the
11 aggregation sufficiently mitigates the applicable privacy concerns.

12 (3) The Office of the Attorney General may bring an action in the Civil
13 Division of the Superior Court, Washington County for injunctive relief, costs,
14 and attorney's fees and to impose on an entity that fails to provide any of the
15 information required by the Office of the Attorney General pursuant to this
16 section, in the format requested by the Office and in accordance with the
17 timeline specified by the Office, a civil penalty of not more than \$10,000.00
18 per violation. Each unlawful failure to provide information shall constitute a
19 separate violation. In any action brought pursuant to this section, the Attorney
20 General shall have the same authority to investigate and to obtain remedies as

1 if the action were brought under the Consumer Protection Act, 9 V.S.A.
2 chapter 63.

3 (c) On or before November 1, 2021, the Office of the Attorney General
4 shall report its findings and recommendations to the House Committees on
5 Health Care and on Commerce and Economic Development and the Senate
6 Committees on Health and Welfare and on Economic Development, Housing,
7 and General Affairs. The report shall include:

8 (1) a summary of prescription insulin drug pricing practices and
9 variables that affect Vermont consumers or that impact the costs of health
10 insurance or other health benefit plans covering Vermont consumers;

11 (2) recommendations for controlling and preventing the overpricing of
12 prescription insulin drugs made available to Vermont consumers directly or
13 through the cost of their health insurance coverage;

14 (3) any recommendations for modifications to Vermont's Consumer
15 Protection Act, 9 V.S.A. chapter 63, or other Vermont laws to prevent
16 deceptive sales practices related to the sale of prescription insulin drugs,
17 including the pricing of those drugs; and

18 (4) any other information the Office of the Attorney General deems
19 relevant.

1 Sec. 3. EFFECTIVE DATES

2 (a) Sec. 1 (8 V.S.A. § 4089i) shall take effect on January 1, 2021 and shall
3 apply to health insurance and other health benefit plans on or after January 1,
4 2021 on such date as a health insurer or pharmacy benefit manager issues,
5 offers, or renews the plan, but in no event later than January 1, 2022.

6 (b) Sec. 2 (Attorney General; prescription insulin drug pricing; report) and
7 this section shall take effect on passage.