General Assembly

Amendment

February Session, 2024

LCO No. **5921**

Offered by:
SEN. HARDING, 30th Dist.
SEN. SOMERS, 18th Dist.

To: Subst. Senate Bill No. **8** File No. 309 Cal. No. 197

(As Amended)

"AN ACT CONCERNING DRUG AFFORDABILITY."

Strike everything after the enacting clause and substitute the following in lieu thereof:

"Section 1. (NEW) (*Effective July 1, 2024*) For the purposes of this section and sections 2 to 11, inclusive, of this act, unless the context otherwise requires:

(1) "Canadian supplier" means a manufacturer or wholesale drug distributor that is licensed or permitted under applicable Canadian law to manufacture or distribute prescription drugs;

(2) "Canadian prescription drug importation program" or "program" means a program under which the state would seek federal approval to import prescription drugs from Canada that have the highest potential for cost savings in the state.

(3) "Drug" means an article that is (A) recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement thereto, (B) intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans, (C) not food and intended to affect the structure or any function of the human body, and (D) not a device and intended for use as a component of any article specified in subparagraphs (A) to (C), inclusive, of this subdivision;

(4) "Drug Quality and Security Act" means the federal Drug Quality and Security Act, 21 USC 351, et seq., as amended from time to time;

(5) "Food, Drug and Cosmetic Act" means the federal Food, Drug and Cosmetic Act, 21 USC 301, et seq., as amended by the Drug Quality and Security Act, as both may be amended from time to time;

(6) "Qualifying laboratory" has the same meaning as provided in 21 CFR 251.2;

(7) "Laboratory testing" means a quantitative and qualitative analysis of a drug consistent with the applicable provisions of the official United States Pharmacopoeia;

(8) "Medical assistance program" means the state's Medicaid program established under Title XIX of the Social Security Act, as amended from time to time, and the Children's Health Insurance Program established under Title XXI of the Social Security Act, as amended from time to time;

(9) "Participating Canadian supplier" means a Canadian supplier that is exporting prescription drugs, in the manufacturer's original container, to a participating wholesaler for distribution in this state under the program;

(10) "Participating wholesaler" means a wholesaler that is (A) designated by the Department of Consumer Protection to distribute prescription drugs, in the manufacturer's original container, obtained from a participating Canadian supplier, and (B) participating in the

program;

(11) "Track-and-trace" means the product tracing process for the components of the pharmaceutical distribution supply chain as described in Title II of the Drug Quality and Security Act; and

(12) "Wholesaler" means a wholesaler, as defined in section 21a-70 of the general statutes, that has received a certificate of registration from the Commissioner of Consumer Protection pursuant to said section.

Sec. 2. (*Effective July 1, 2024*) (a) The Commissioner of Consumer Protection, in consultation with the executive director of the Office of Health Strategy, shall hire a consultant to study the feasibility of establishing a Canadian prescription drug importation program to reduce prescription drug costs for the medical assistance program. Not later than January 31, 2025, the consultant shall file a report, in accordance with the provisions of section 11-4a of the general statutes, with the commissioner and the joint standing committees of the General Assembly having cognizance of matters relating to appropriations, general law and human services on estimated costs and savings associated with establishing the program and recommendations on whether and how such program could be expanded in the future to reduce prescription drug costs in the state.

(b) The commissioner shall, within available resources, spend not more than one hundred twenty-five thousand dollars on hiring such consultant.

Sec. 3. (*Effective July 1, 2025*) (a) If the establishment of a Canadian prescription drug importation program is deemed feasible pursuant to section 2 of this act, the Commissioner of Consumer Protection, in consultation with the executive director of the Office of Health Strategy and the board that may be established pursuant to section 11 of this act, may submit a request to the federal Food and Drug Administration seeking approval for the program under Section 804 of the federal Food, Drug and Cosmetic Act, 21 USC 384(b) to 21 USC 384(h), inclusive, as amended from time to time. If submitted, such request shall, at a

minimum:

(1) Describe the state's plans for operating the program;

(2) Demonstrate that any prescription drug that is imported and distributed in this state under the program:

(A) Meets all applicable federal and state standards for safety and effectiveness; and

(B) Complies with all federal tracing procedures; and

(3) Disclose the costs of implementing the program.

(b) (1) If the federal Food and Drug Administration approves the request, the Commissioner of Consumer Protection shall:

(A) Submit to the executive director of the Office of Health Strategy and the Commissioner of Social Services a notice disclosing that the federal Food and Drug Administration approved such request;

(B) Submit to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations, general law, human services and public health a notice disclosing that the federal Food and Drug Administration approved such request; and

(C) Begin operating the program in consultation with the executive director of the Office of Health Strategy and the Commissioner of Social Services not later than one hundred eighty days after the date of such approval.

(2) The Commissioner of Consumer Protection shall not operate the program unless the federal Food and Drug Administration approves the request.

Sec. 4. (*Effective July 1, 2025*) If the Canadian prescription drug importation program is established, each participating wholesaler may import and distribute a prescription drug in this state from a participating Canadian supplier under the program if:

(1) Such drug meets the United States Food and Drug Administration's standards concerning drug safety, effectiveness, misbranding and adulteration;

(2) Importing such drug would not violate federal patent laws; and

(3) Such drug is not:

(A) A controlled substance, as defined in 21 USC 802, as amended from time to time;

(B) A biological product, as defined in 42 USC 262, as amended from time to time;

(C) An infused drug;

(D) An intravenously injected drug;

(E) A drug that is inhaled during surgery; or

(F) A drug that is a parenteral drug, the importation of which is determined by the federal Secretary of Health and Human Services to pose a threat to the public health.

Sec. 5. (*Effective July 1, 2025*) If a Canadian prescription drug importation program is established, participating wholesalers may, subject to the provisions of sections 2 to 9, inclusive, of this act, import and distribute drugs in this state from a participating Canadian supplier under the program to:

(1) A pharmacy or institutional pharmacy, as defined in section 20-571 of the general statutes, solely for prescriptions covered under the medical assistance program; and

(2) A qualifying laboratory.

Sec. 6. (*Effective July 1, 2025*) If a Canadian prescription drug importation program is established, the Commissioner of Consumer Protection shall require that each participating Canadian supplier and

participating wholesaler (1) comply with all applicable track-and-trace requirements, and shall not distribute, dispense or sell outside of this state any prescription drug that is imported into this state under the program, and (2) make available to the commissioner all track-and-trace records not later than forty-eight hours after the commissioner requests such records.

Sec. 7. (*Effective July 1, 2025*) (a) A participating wholesaler in any approved Canadian prescription drug importation program shall ensure the safety and quality of all drugs that may be imported and distributed in this state under the program. The participating wholesaler shall, if such program is established:

(1) For each initial shipment of a drug that is imported into this state by a participating wholesaler, ensure that a qualifying laboratory engaged by the participating wholesaler tests a statistically valid sample size for each batch of each drug in such shipment for authenticity and degradation in a manner that is consistent with the Food, Drug and Cosmetic Act;

(2) For each shipment of a drug that is imported into this state by a participating wholesaler and has been sampled and tested pursuant to subdivision (1) of this subsection, ensure that a qualifying laboratory engaged by the participating wholesaler tests a statistically valid sample of such shipment for authenticity and degradation in a manner that is consistent with the Food, Drug and Cosmetic Act;

(3) Only import drugs into this state that are (A) approved for marketing in the United States, (B) not adulterated or misbranded, and (C) meet all of the labeling requirements under 21 USC 352, as amended from time to time;

(4) Maintain qualifying laboratory records, including, but not limited to, complete data derived from all tests necessary to ensure that each drug imported into this state under the program is in compliance with the requirements of this section; and

(5) Maintain documentation demonstrating that the testing required by this section was conducted at a qualifying laboratory in accordance with the Food, Drug and Cosmetic Act and all other applicable federal and state laws and regulations concerning qualifying laboratory qualifications.

(b) The participating wholesaler shall maintain all information and documentation pursuant to this section for a period of not less than three years from the date of submission.

(c) Each participating wholesaler shall maintain all of the following information for each drug that such participating wholesaler imports and distributes in this state under the program, and submit such information to the Commissioner of Consumer Protection upon request by the commissioner:

(1) The name and quantity of the active ingredient of such drug;

(2) A description of the dosage form of such drug;

(3) The date on which such participating wholesaler received such drug;

(4) The quantity of such drug that such participating wholesaler received;

(5) The point of origin and destination of such drug;

(6) The price paid by such participating wholesaler for such drug;

(7) A report for any drug that fails qualifying laboratory testing; and

(8) Such additional information and documentation that the commissioner deems necessary to ensure the protection of the public health.

(d) The Commissioner of Consumer Protection shall require each participating Canadian supplier in any approved Canadian prescription drug importation program to maintain the following information and

documentation and, upon request by the commissioner, submit such information and documentation to the commissioner for each drug that such participating Canadian supplier exports into this state under the program:

(1) The original source of such drug, including, but not limited to:

(A) The name of the manufacturer of such drug;

(B) The date on which such drug was manufactured; and

(C) The location where such drug was manufactured;

(2) The date on which such drug was shipped;

(3) The quantity of such drug that was shipped;

(4) The quantity of each lot of such drug originally received and the source of such lot;

(5) The lot or control number and the batch number assigned to such drug by the manufacturer; and

(6) Such additional information and documentation that the Commissioner of Consumer Protection, in consultation with the executive director of the Office of Health Strategy and the Commissioner of Social Services, deems necessary to ensure the protection of the public health.

Sec. 8. (*Effective July 1, 2025*) (a) If a Canadian prescription drug importation program is established, the Commissioner of Consumer Protection shall issue a written order:

(1) Suspending importation and distribution of a drug under the program if the commissioner discovers that such distribution or importation violates any provision of sections 2 to 9, inclusive, of this act or any other applicable state or federal law or regulation;

(2) Suspending all importation and distribution of drugs by a

participating wholesaler under the program if the commissioner discovers that the participating wholesaler has violated any provision of sections 2 to 9, inclusive, of this act or any other applicable state or federal law or regulation;

(3) Suspending all importation and distribution of drugs by a participating Canadian supplier under the program if the commissioner discovers that the participating Canadian supplier has violated any provision of sections 2 to 9, inclusive, of this act or any other applicable state or federal law or regulation; or

(4) Requiring the recall or seizure of any drug that was imported and distributed under the program and has been identified as adulterated, within the meaning of section 21a-105 of the general statutes, or misbranded.

(b) The commissioner shall send a notice to each participating Canadian supplier and participating wholesaler affected by any order issued pursuant to subsection (a) of this section notifying such participating Canadian supplier or participating wholesaler that:

(1) The commissioner has issued such order, and provide the legal and factual basis for such order; and

(2) Such participating Canadian supplier or participating wholesaler may request, in writing, a hearing before the commissioner, provided such request is received by the commissioner not later than thirty days after the date of such notice.

(c) If a hearing is timely requested pursuant to subsection (b) of this section, the commissioner shall, not later than thirty days after the receipt of the request, convene the hearing as a contested case in accordance with the provisions of chapter 54 of the general statutes. The commissioner shall issue a final decision vacating, modifying or affirming the order not later than ninety days after the close of evidence or the due date for the filing of briefs, whichever is later. The participating Canadian supplier or participating wholesaler aggrieved

by such final decision may appeal such decision in accordance with the provisions of section 4-183 of the general statutes.

Sec. 9. (*Effective July 1, 2025*) If a Canadian prescription drug importation program is established, the Commissioner of Consumer Protection, in consultation with the executive director of the Office of Health Strategy and the Commissioner of Social Services, may adopt regulations in accordance with the provisions of chapter 54 of the general statutes to implement the provisions of sections 2 to 9, inclusive, of this act.

Sec. 10. (*Effective July 1, 2025*) Not later than one hundred eighty days after any Canadian prescription drug importation program begins, and annually thereafter, the Commissioner of Consumer Protection shall submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations, general law, human services and public health. Such report shall describe (1) the operations of the program, if established, (2) any violation of sections 2 to 9, inclusive, of this act that resulted in any action taken by the commissioner pursuant to section 8 of this act and the status of the investigation into such violation, and (3) recommendations for expanding the program to other state-funded and privately funded health care programs.

Sec. 11. (*Effective July 1, 2025*) (a) If a Canadian prescription drug importation program is established, there shall be established a pharmacy advisory board for the program, as such program is defined in section 1 of this act, which shall be within the Department of Consumer Protection for administrative purposes only.

(b) The board shall consist of the following members:

(1) Two appointed by the speaker of the House of Representatives, who are representatives of an organization that represents pharmacies;

(2) Two appointed by the president pro tempore of the Senate, one of

whom is a representative of an organization representing pharmacy benefit managers and one of whom is an academic with expertise in consumer access to prescription drugs;

(3) One appointed by the majority leader of the House of Representatives;

(4) One appointed by the majority leader of the Senate;

(5) One appointed by the minority leader of the House of Representatives;

(6) One appointed by the minority leader of the Senate; and

(7) Two persons appointed by the Governor.

(c) All initial appointments to the board shall be made not later than January 1, 2026. Any vacancy shall be filled by the appointing authority.

(d) The speaker of the House of Representatives and the president pro tempore of the Senate shall select the chairpersons of the board from among the members of the board. Such chairpersons shall schedule the first meeting of the board, which shall be held not later than February 1, 2026.

(e) The administrative staff of the joint standing committee of the General Assembly having cognizance of matters relating to general law shall serve as administrative staff of the task force.

(f) Not later than July 1, 2026, the board, if established, shall submit a report on its findings and recommendations concerning the Canadian prescription drug importation program to the Commissioner of Consumer Protection and the joint standing committees of the General Assembly having cognizance of matters relating to general law, human services and public health, in accordance with the provisions of section 11-4a of the general statutes. The board shall terminate on the date that it submits such report or July 1, 2026, whichever is later.

Sec. 12. (NEW) (*Effective July 1, 2024*) (a) There is established the Prescription Drug Affordability Board to advise the executive director of the Office of Health Strategy on decisions regarding the affordability of prescription drugs. The board shall be within the Office of Health Strategy for administrative purposes only.

(b) The purposes of the Prescription Drug Affordability Board shall be to (1) explore strategies to reduce out-of-pocket drug costs to consumers while supporting innovations in biotechnology and scientific discovery, (2) study the prescription drug supply chain and pharmaceutical pricing strategies to identify opportunities for consumer savings, (3) monitor prescription drug prices in the state, (4) promote innovative strategies for the use of more affordable drugs, (5) take into consideration recommendations of a stakeholder council established pursuant to section 13 of this act, (6) recommend a range of options of prescription drug cost affordability tools to the executive director of the Office of Health Strategy, and (7) recommend strategies to support Connecticut's biopharmaceutical industry.

(c) The board shall consist of five members, each of whom shall have an advanced degree and experience or expertise in a relevant field, including, but not limited to, health care economics, health services research, pharmacoeconomics, pharmacology or clinical medicine. At least one such member shall have direct experience with consumer advocacy and health equity. The members shall be appointed by the Governor with the advice and consent of either house of the General Assembly. The Governor shall make all initial appointments not later than January 1, 2025. Any vacancy shall be filled for the remainder of the unexpired term by the Governor.

(d) Each member of the board shall serve a term of three years, except as to the terms of the members who are first appointed to the board. Two such members shall serve an initial term of three years, two such members shall serve an initial term of two years and one such member shall serve an initial term of one year, to be determined by the Governor. The Governor may remove any appointed member of the board for

malfeasance in office, failure to regularly attend meetings or any cause that renders the member incapable or unfit to discharge the duties of the member's office. Any such removal is not subject to review. No board member shall serve for more than three full terms, or nine years in total, including partial terms.

(e) The Governor shall designate one member of the board to serve as the chairperson of the board. Such chairperson shall schedule the first meeting of the board, which shall be held not later than February 1, 2025.

(f) The board may employ staff and engage in contracts necessary to carry out its purposes as set forth in subsection (b) of this section. The board shall meet not less than quarterly. A majority of the board shall constitute a quorum. The concurrence of a majority of the board present at any meeting on a matter within the board's powers and duties is required for any determination made by the board. Any conflict of interest involving a member of the board shall be disclosed not later than at the next board meeting after the conflict is identified.

(g) Not later than December 31, 2025, and annually thereafter, the board shall report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to aging, general law, human services and insurance. The report shall include, but need not be limited to: (1) Strategies for identifying and eliminating pricing or business practices that raise prices without supporting or enhancing innovation in drug development, (2) price trends and affordability strategies for any drug identified pursuant to subsection (b) or (c) of section 15 of this act, (3) any recommendations the board may have for legislation needed to make prescription drug products more affordable in the state while supporting and enhancing innovation in drug development, (4) purchasing strategies, cost effectiveness evaluations and the development of new technologies and drugs that increase affordability, (5) any violation resulting in penalties pursuant to section 16 of this act, and (6) a summary and evaluation of the Prescription Drug Affordability Board's activities and recommendations.

(h) Members of the board may engage in private employment, or in a profession or business, subject to any applicable laws and regulations of the state regarding official ethics or conflict of interest. As used in this subsection, (1) "conflict of interest" means (A) an association of a board member, including a financial or personal association, that has the potential to bias or appear to bias a board member's decisions in matters related to the board, and (B) any instance in which a board member, a staff member of the board or an immediate family member of a board member has received or could receive (i) a financial benefit of any amount derived from the results or findings of a study or determination that is reached by or for the board, or (ii) a financial benefit from an individual or company that owns or manufacturers a prescription drug, service or item that is being or will be studied by the board; and (2) "financial benefit" means honoraria, fees, stock or any other form of compensation, including increases to the value of existing stock holdings.

(i) In carrying out its purposes, the board shall:

(1) Collect and review publicly available information and information available via private subscriptions regarding prescription drug pricing and business practices of health carriers, health maintenance organizations, managed care organizations, manufacturers, wholesale distributors and pharmacy benefit managers, including, but not limited to, the annual report by pharmacy benefit managers required pursuant to section 38a-479ppp of the general statutes;

(2) Identify innovative strategies that may reduce the cost of prescription drugs to consumers, including importation of certain prescription drugs from Canada and other foreign countries and jurisdictions; and

(3) Identify states with innovative programs to lower prescription drug costs and, if relevant and approved by the board, (A) enter into memoranda of understanding with such states to aid in the collection of

transparency data for prescription drug products or any other information needed to establish similar programs in this state, and (B) recommend multistate compacts the state can join to lower prescription drug costs.

(j) The board may receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of the board, provided acceptance of such aid or contributions does not present a conflict of interest for any board member or any purpose of the board.

Sec. 13. (NEW) (*Effective July 1, 2024*) (a) There is established a Prescription Drug Affordability Stakeholder Advisory Council to advise the Prescription Drug Affordability Board established pursuant to section 12 of this act on decisions regarding the affordability of prescription drugs.

(b) Members of the council shall serve for three years and shall consist of:

(1) Two appointed by the speaker of the House of Representatives;

(2) Two appointed by the president pro tempore of the Senate;

(3) One appointed by the majority leader of the House of Representative;

(4) One appointed by the majority leader of the Senate;

(5) One appointed by the minority leader of the House of Representatives;

(6) One appointed by the minority leader of the Senate;

(7) One appointed by the Governor;

(8) The Commissioner of Social Services, or the commissioner's designee;

(9) The Commissioner of Consumer Protection, or the commissioner's designee;

(10) The executive director of the Office of Health Strategy, or the executive director's designee; and

(11) The Healthcare Advocate, or the Healthcare Advocate's designee.

(c) All initial appointments to the council shall be made not later than November 1, 2024. Any vacancy shall be filled by the appointing authority.

(d) The speaker of the House of Representatives and the president pro tempore of the Senate shall select the chairpersons of the council from among the members of the council. Such chairpersons shall schedule the first meeting of the council, which shall be held not later than December 1, 2024.

(e) The administrative staff of the joint standing committee of the General Assembly having cognizance of matters relating to insurance shall serve as administrative staff of the council.

(f) Not later than September 1, 2025, and annually thereafter, the council shall submit a report to the board, in accordance with the provisions of section 11-4a of the general statutes, on its recommendations concerning prescription drug prices. The council shall also provide recommendations to the board at any time the board requests such recommendations.

Sec. 14. (NEW) (*Effective July 1, 2024*) As used in this section and sections 15 and 16 of this act:

(1) "Biologic" means a drug licensed under 42 USC 262, as amended from time to time;

(2) "Biosimilar" means a drug that is highly similar to a biologic and is produced or distributed in accordance with a biologics license

application approved under 42 USC 262(k), as amended from time to time;

(3) "Board" means the Prescription Drug Affordability Board established pursuant to section 12 of this act;

(4) "Brand-name drug" means a drug that is produced or distributed in accordance with an original new drug application approved under 21 USC 355, as amended from time to time, but does not include an authorized generic drug as defined in 42 CFR 447.502, as amended from time to time;

(5) "Generic drug" means (A) a prescription drug product that is marketed or distributed in accordance with an abbreviated new drug application approved under 21 USC 355, as amended from time to time, (B) an authorized generic drug as defined in 42 CFR 447.502, as amended from time to time, or (C) a drug that entered the market before calendar year 1962 that was not originally marketed under a new prescription drug product application;

(6) "Manufacturer" means an entity that (A) engages in the manufacture of a drug product, or (B) enters into a lease with another manufacturer to market and distribute a prescription drug product under the entity's own name and sets or changes the wholesale acquisition cost of the prescription drug product it manufactures or markets;

(7) "Prescription drug product" means a brand-name drug, a generic drug, a biologic or biosimilar;

(8) "Upper payment limit" means the maximum rate above which purchasers throughout the state may not pay for prescription drug products exclusive of any reasonable fee charged by a pharmacy for dispensing or delivering such products; and

(9) "Wholesale acquisition cost" means the price of a medication set by a pharmaceutical manufacturer in the United States when selling to

a wholesaler.

Sec. 15. (NEW) (*Effective July 1, 2024*) (a) To the extent practicable, the Prescription Drug Affordability Board established pursuant to section 12 of this act may assess pricing information for prescription drug products by: (1) Entering into a memorandum of understanding with another state to which a manufacturer reports pricing information, (2) assessing spending for the drug in Connecticut, (3) utilizing data and findings, including consumer affordability strategies, developed by another state's board, (4) utilizing data and findings, including cost containment strategies, developed by any other state or federal entity, (5) utilizing the maximum fair price for a prescription drug for persons eligible for Medicare established pursuant to the federal Inflation Reduction Act of 2022, P.L. No. 117-169, as amended from time to time, and (6) assessing any other available pricing information.

(b) On and after July 1, 2025, the board shall review the following prescription drug products:

(1) Any outpatient prescription drug listed by the Office of Health Strategy pursuant to section 19a-754b of the general statutes;

(2) Any drug designated by another state's prescription drug affordability board as unaffordable or that will be subject to an affordability review;

(3) Any drug selected by the Centers for Medicare and Medicaid Services for price negotiation under Medicare Part D;

(4) Insulin drugs as defined in section 20-616 of the general statutes and noninsulin drugs as defined in section 38a-492d of the general statutes, as amended by this act; and

(5) The board shall not review an oncology drug, vaccine, infused drug, drug to treat blood disorders, FDA breakthrough drug, rare disease drug, a drug with a new mechanism of action for treating a medical condition or a drug with a unique FDA approved indication

within a drug class.

(c) On and after July 1, 2025, the board shall identify any other prescription drug products or pricing practices that may create affordability challenges, such as increasing prices or decreasing access, for the health care system in the state or patients, including, but not limited to, drugs needed to address significant public health priorities.

(d) After identifying prescription drug products as required by subsections (b) and (c) of this section, the board may conduct a review for any identified prescription drug product or pricing practice if, after (1) seeking input from the Prescription Drug Affordability Stakeholder Advisory Council established pursuant to section 13 of this act, and (2) considering the average patient cost share of the prescription drug product, the board determines such review is in the interest of consumers.

(e) In conducting a review of prescription drugs, the board shall examine any document and research related to the pricing of the prescription drug product, including, but not limited to, (1) net average price in the state, (2) market competition and context, (3) projected revenue to the manufacturer, (4) the estimated value or cost effectiveness, (5) whether and how the prescription drug product represents an innovative therapy or is likely to improve health or health outcomes for the target consumer, and (6) any voucher rebates, discounts, patient access programs or other cost mitigation strategies relevant to the prescription drug product.

(f) The board shall determine whether use of the prescription drug product, consistent with the labeling approved by the federal Food and Drug Administration or standard medical practice, has led or will lead to affordability challenges, such as increasing prices or decreasing access, for the health care system in the state or for patients. In determining whether a prescription drug product has led or will lead to an affordability challenge, the board may consider the following factors:

(1) The wholesale acquisition cost for the prescription drug product

sold in the state;

(2) The average monetary price concession, discount or rebate provided or expected to be provided to health plans in the state as reported by manufacturers and health plans, expressed as a percentage of the wholesale acquisition cost for the prescription drug product under review;

(3) The total amount of the price concession, discount or rebate the manufacturer provides to each pharmacy benefits manager operating in the state for the prescription drug product under review, as reported by manufacturers and pharmacy benefits managers, expressed as a percentage of the wholesale acquisition costs;

(4) The price at which therapeutic alternatives have been sold in the state;

(5) The average monetary concession, discount or rebate the manufacturer provides or is expected to provide to health plan payors and pharmacy benefits managers in the state for therapeutic alternatives;

(6) The costs to health plans based on patient access consistent with United States Food and Drug Administration labeled indications and recognized standard medical practice;

(7) The impact on patient access resulting from the cost of the prescription drug product relative to health plan benefit design;

(8) The current or expected dollar value of drug–specific patient access programs that are supported by the manufacturer;

(9) The relative financial impacts to health, medical or social services costs as may be quantified and compared to baseline effects of existing therapeutic alternatives;

(10) The average patient copayment or other cost sharing for the prescription drug product in the state;

(11) Any information a manufacturer chooses to provide; and

(12) Any other factors as determined by the board.

(g) If the board finds that the spending on a prescription drug product reviewed under this section has led or will lead to an affordability challenge, such as increasing prices or decreasing access to such drug, and determines that at least three other states with a combined population above fifteen million have also examined the affordability of said prescription drug product, the board shall coordinate with other states and may join a multistate compact to set an upper payment limit on such drug products. The board shall recommend the establishment of an upper payment limit for such drug product and any such compact it deems would benefit the state to the executive director of the Office of Health Strategy and the Commissioner of Consumer Protection after considering: (1) The cost of administering the drug, (2) the cost of delivering the drug to patients, and (3) other relevant administrative costs related to the drug. In its recommendations, the board may utilize (A) upper payment limits set by similar boards in other states, provided the board finds that the other entity's price justification process is at least as rigorous as the process set forth in state law, (B) upper payment limits set by any other state or federal entity, provided the board finds that the other entity's price justification process is at least as rigorous as the process set forth in state law, and (C) the Medicare maximum fair price for a prescription drug established pursuant to the federal Inflation Reduction Act of 2022, P.L. No. 117-169.

(h) The executive director of the Office of Health Strategy shall adopt regulations in accordance with chapter 54 of the general statutes governing the adoption of an upper payment limit recommendation from the board.

Sec. 16. (NEW) (*Effective July 1, 2025*) (a) As used in this section and section 17 of this act, (1) "participating ERISA plan" means an employee welfare benefit plan subject to the Employee Retirement Income

Security Act of 1974, as amended from time to time, that elects to participate in the provisions of this section and section 17 of this act; (2) "health benefit plan" has the same meaning as provided in section 38a-472f of the general statutes; and (3) "state entity" means any state agency, or any person acting on the state's behalf that purchases a prescription drug for an individual with a health benefit plan provided by the state, including a health benefit plan offered by local, state or federal agencies or through organizations licensed in the state.

(b) It shall be a violation of this section for a state entity, health benefit plan or participating ERISA plan to purchase prescription drugs with an established upper payment limit to be dispensed or delivered to a consumer in the state, whether directly or through a distributor, for a cost higher than the upper payment limit as determined pursuant to subsection (g) of section 15 of this act. Contracts entered into by a state entity, health benefit plan or participating ERISA plan and a third party for the purchase of prescription drugs shall expressly provide that rates paid for drugs may not exceed the upper payment limit.

(c) It shall be a violation of this section for a retail pharmacy licensed in this state to purchase for sale or distribution to a person whose health care is provided by a state entity, health benefit plan or participating ERISA plan a drug for a cost that exceeds the upper payment limit as determined pursuant to subsection (g) of section 15 of this act. A pharmacy may set reasonable costs for dispensing or delivering a prescription drug subject to an upper payment limit.

(d) The Commissioner of Consumer Protection, in consultation with the executive director of the Office of Health Strategy, shall enforce the provisions of this section and may, subject to notice and an opportunity for a hearing pursuant to chapter 54 of the general statutes, issue civil penalties not exceeding fifty thousand dollars per violation. The commissioner shall adopt regulations, in accordance with chapter 54 of the general statutes, to implement the provisions of this section.

Sec. 17. (NEW) (*Effective July 1, 2025*) Any savings generated by a state

entity, health benefit plan or participating ERISA plan that are attributable to the implementation of an upper payment limit established upon recommendation of the Prescription Drug Affordability Board shall be used to reduce health care costs to consumers, prioritizing the reduction of out-of-pocket costs for prescription drugs. Not later than April 1, 2026, and annually thereafter, each state entity, health benefit plan and participating ERISA plan shall submit to the board and to the executive director of the Office of Health Strategy a report, in a form prescribed by the executive director, detailing the total volume and price paid for any drug subject to an upper payment limit. Not later than July 1, 2026, and annually thereafter, the executive director, in accordance with the provisions of section 11-4a of the general statutes, shall file a report with the joint standing committees of the General Assembly having cognizance of matters relating to appropriations, general law, human services, insurance and public health. The report shall include savings achieved as a result of implementing upper payment limits, how those savings were passed on to the consumer, and the executive director's recommendations concerning additional savings that may be achieved and supporting strategies to ensure those savings are passed on to the consumer.

Sec. 18. (NEW) (*Effective July 1, 2025*) (a) As used in this section, "manufacturer" means an entity that (1) engages in the manufacture of a drug product, or (2) enters into a lease with another manufacturer to market and distribute a prescription drug product under the entity's own name and sets or changes the wholesale acquisition cost of the prescription drug product it manufactures or markets. Any manufacturer that intends to withdraw from sale or distribution within the state, or change pricing or availability to the point that access is impaired or restricted, of a prescription drug for which the Prescription Drug Affordability Board has recommended an upper payment limit shall provide a notice of withdrawal in writing at least six months before the date of the intended withdrawal of such prescription drug to the board, the executive director of the Office of Health Strategy, the

Commissioner of Consumer Protection, the Insurance Commissioner, the Attorney General and any entity in the state with which the manufacturer has a contract for the sale or distribution of the drug.

(b) The Commissioner of Consumer Protection may assess a civil penalty not to exceed five hundred thousand dollars if the board determines that a manufacturer failed to provide the notice required by subsection (a) of this section before withdrawing from sale or distribution, or changing pricing or availability to the point that access is impaired or restricted, of a prescription drug within the state for which an upper payment limit has been established in accordance with subsection (g) of section 15 of this act. Any such penalty shall be assessed only after notice to a manufacturer and an opportunity for a hearing pursuant to the provisions of chapter 54 of the general statutes. The commissioner shall adopt regulations, in accordance with chapter 54 of the general statutes, to implement the provisions of this section.

(c) A representative of a manufacturer that reasonably foresees an impending shortage of a prescription drug such manufacturer sells or distributes in the state shall notify the board in the same form and manner a manufacturer is required to notify the federal Food and Drug Administration of such shortage in accordance with the notification provisions of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136, as amended from time to time. The Commissioner of Consumer Protection may assess a civil penalty of not more than fifty thousand dollars for each violation of the provisions of this subsection after notice and an opportunity for a hearing in accordance with the provisions of chapter 54 of the general statutes. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to implement the provisions of this section. A penalty shall not be assessed under this subsection if a manufacturer provides evidence satisfactory to the commissioner that a drug shortage was caused by unforeseen circumstances, such as an accident or disaster affecting a manufacturing facility or supply network.

Sec. 19. (NEW) (*Effective January 1, 2025*) (a) As used in this section:

(1) "Health benefit plan" has the same meaning as provided in section 38a-472f of the general statutes;

(2) "Insulin" means an insulin product, including, but not limited to, an insulin pen or vial, that is licensed under 42 USC 262(a) or 42 USC 262(k), as amended from time to time;

(3) "Eligible insulin product" means an insulin product for which at least two licenses have been issued and continues to be marketed pursuant to such licensure;

(4) "Net cost" means the cost of an insulin product taking into account rebates or discounts for that specific product, excluding (A) rebates or discounts required by state or federal law, including Medicaid, Medicare and section 340B of the Public Health Service Act, 42 USC 256b, as amended from time to time, and (B) rebates or discounts related to portfolio agreements that relate to purchase of multiple insulin products or other drugs;

(5) "State entity" means any state agency, or any person acting on behalf of the state, that purchases a prescription drug for an individual with health insurance paid for by the state, including health insurance offered by local, state, or federal agencies or through organizations licensed in the state;

(6) "Wholesale acquisition cost" means the price of a medication set by a pharmaceutical manufacturer in the United States when selling to a wholesaler; and

(7) "Wholesaler" means a wholesaler, as defined in section 21a-70 of the general statutes, that has received a certificate of registration from the Commissioner of Consumer Protection pursuant to said section.

(b) A state entity and health benefit plan shall, except as otherwise required in any collective bargaining agreement affecting the state employee health plan established pursuant to section 5-259 of the

general statutes, make available in a preferred tier with no copayment or out-of-pocket cost an eligible insulin product at the lowest wholesale acquisition cost to a beneficiary. Notwithstanding the provisions of this section, if a state entity or health benefit plan determines that another eligible insulin product has a lower net cost than the lowest wholesale acquisition cost, such entity or health plan may offer that product with no out-of-pocket payment to a beneficiary of such state entity or health benefit plan. Nothing in this section shall prevent such entity or health benefit plan from covering more than one eligible insulin product in a preferred tier with no copayment or out-of-pocket cost to a beneficiary of such entity or health benefit plan.

Sec. 20. Section 38a-492d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2025*):

(a) For the purposes of this section:

(1) "Diabetes device" has the same meaning as provided in section 20-616;

(2) "Diabetic ketoacidosis device" has the same meaning as provided in section 20-616;

(3) "Glucagon drug" has the same meaning as provided in section 20-616;

(4) "High deductible health plan" has the same meaning as that term is used in subsection (f) of section 38a-493;

(5) "Insulin drug" has the same meaning as provided in section 20-616;

(6) "Noninsulin drug" means a drug, including, but not limited to, a glucagon drug, glucose tablet or glucose gel, that does not contain insulin and is approved by the federal Food and Drug Administration to treat diabetes; and

(7) "Prescribing practitioner" has the same meaning as provided in

section 20-571.

(b) Notwithstanding the provisions of section 38a-492a, each individual health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 delivered, issued for delivery, renewed, amended or continued in this state shall provide coverage for the treatment of all types of diabetes. Such coverage shall include, but need not be limited to, coverage for medically necessary:

(1) Laboratory and diagnostic testing and screening, including, but not limited to, hemoglobin A1c testing and retinopathy screening, for all types of diabetes;

(2) Insulin drugs (A) prescribed by a prescribing practitioner, or (B) prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year;

(3) Noninsulin drugs (A) prescribed by a prescribing practitioner, or (B) prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year if the noninsulin drug is a glucagon drug;

(4) Diabetes devices in accordance with the insured's diabetes treatment plan, including, but not limited to, diabetes devices prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year; and

(5) Diabetic ketoacidosis devices in accordance with the insured's diabetes treatment plan, including, but not limited to, diabetic ketoacidosis devices prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year.

(c) Notwithstanding the provisions of section 38a-492a, no policy described in subsection (b) of this section shall impose coinsurance, copayments, deductibles and other out-of-pocket expenses on an insured that exceed:

(1) Twenty-five dollars for each thirty-day supply of a medically

necessary covered insulin drug (A) prescribed to the insured by a prescribing practitioner, or (B) prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year;

(2) Twenty-five dollars for each thirty-day supply of a medically necessary covered noninsulin drug (A) prescribed to the insured by a prescribing practitioner, or (B) prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year if such noninsulin drug is a glucagon drug;

(3) One hundred dollars for a thirty-day supply of all medically necessary covered diabetes devices and diabetic ketoacidosis devices for such insured that are in accordance with such insured's diabetes treatment plan, including, but not limited to, diabetes devices and diabetic ketoacidosis devices prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year.

(d) Notwithstanding the provisions of section 38a-492a and subsection (c) of this section, on and after January 1, 2025, any policy described in subsection (b) of this section shall make available in a preferred tier with no copayment or out-of-pocket cost an eligible insulin product, as defined in section 19 of this act, at the lowest wholesale acquisition cost in accordance with section 19 of this act.

[(d)**]** (e) The provisions of **[**subsection (c)**]** subsections (c) and (d) of this section shall apply to a high deductible health plan to the maximum extent permitted by federal law, except if such plan is used to establish a medical savings account or an Archer MSA pursuant to Section 220 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, or a health savings account pursuant to Section 223 of said Internal Revenue Code, as amended from time to time, the provisions of said **[**subsection (c)**]** subsections shall apply to such plan to the maximum extent that (1) is permitted by federal law, and (2) does not disqualify such account for the deduction allowed under said Section 220 or 223, as applicable.

Sec. 21. Section 38a-518d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2025*):

(a) For the purposes of this section:

(1) "Diabetes device" has the same meaning as provided in section 20-616;

(2) "Diabetic ketoacidosis device" has the same meaning as provided in section 20-616;

(3) "Glucagon drug" has the same meaning as provided in section 20-616;

(4) "High deductible health plan" has the same meaning as that term is used in subsection (f) of section 38a-520;

(5) "Insulin drug" has the same meaning as provided in section 20-616;

(6) "Noninsulin drug" means a drug, including, but not limited to, a glucagon drug, glucose tablet or glucose gel, that does not contain insulin and is approved by the federal Food and Drug Administration to treat diabetes; and

(7) "Prescribing practitioner" has the same meaning as provided in section 20-571.

(b) Notwithstanding the provisions of section 38a-518a, each group health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 delivered, issued for delivery, renewed, amended or continued in this state shall provide coverage for the treatment of all types of diabetes. Such coverage shall include, but need not be limited to, coverage for medically necessary:

(1) Laboratory and diagnostic testing and screening, including, but not limited to, hemoglobin A1c testing and retinopathy screening, for

all types of diabetes;

(2) Insulin drugs (A) prescribed by a prescribing practitioner, or (B) prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year;

(3) Noninsulin drugs (A) prescribed by a prescribing practitioner, or (B) prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year if the noninsulin drug is a glucagon drug;

(4) Diabetes devices in accordance with the insured's diabetes treatment plan, including, but not limited to, diabetes devices prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year; and

(5) Diabetic ketoacidosis devices in accordance with the insured's diabetes treatment plan, including, but not limited to, diabetic ketoacidosis devices prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year.

(c) Notwithstanding the provisions of section 38a-518a, no policy described in subsection (b) of this section shall impose coinsurance, copayments, deductibles and other out-of-pocket expenses on an insured that exceed:

(1) Twenty-five dollars for each thirty-day supply of a medically necessary covered insulin drug (A) prescribed to the insured by a prescribing practitioner, or (B) prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year;

(2) Twenty-five dollars for each thirty-day supply of a medically necessary covered noninsulin drug (A) prescribed to the insured by a prescribing practitioner, or (B) prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year if such noninsulin drug is a glucagon drug;

(3) One hundred dollars for a thirty-day supply of all medically necessary covered diabetes devices and diabetic ketoacidosis devices for

such insured that are in accordance with such insured's diabetes treatment plan, including, but not limited to, diabetes devices and diabetic ketoacidosis devices prescribed and dispensed pursuant to subsection (d) of section 20-616 once during a policy year.

(d) Notwithstanding the provisions of section 38a-518a and subsection (c) of this section, on and after January 1, 2025, any policy described in subsection (b) of this section shall make available in a preferred tier with no copayment or out-of-pocket cost an eligible insulin product, as defined in section 19 of this act, at the lowest wholesale acquisition cost in accordance with section 19 of this act.

[(d)**]** (e) The provisions of **[**subsection (c)**]** subsections (c) and (d) of this section shall apply to a high deductible health plan to the maximum extent permitted by federal law, except if such plan is used to establish a medical savings account or an Archer MSA pursuant to Section 220 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, or a health savings account pursuant to Section 223 of said Internal Revenue Code, as amended from time to time, the provisions of said **[**subsection (c)**]** subsections shall apply to such plan to the maximum extent that (1) is permitted by federal law, and (2) does not disqualify such account for the deduction allowed under said Section 220 or 223, as applicable.

Sec. 22. (NEW) (*Effective July 1, 2024*) (a) As used in this section:

(1) "Eligible drug" means an injectable drug product approved under Section 505(j) or 505(b)(2) of the federal Food, Drug and Cosmetic Act, as amended from time to time, that is on the drug shortage list, or has been on such list during the prior five-year period, established under Section 506E of the federal Food, Drug and Cosmetic Act, 21 USC 356e, as amended from time to time, or which has otherwise been identified as being at risk of shortage;

(2) "Drug purchasing agency" means the Departments of Correction, Social Services and Mental Health and Addiction Services; and

(3) "Hospital" means a hospital licensed pursuant to chapter 368v of the general statutes.

(b) Each hospital or drug purchasing agency shall consider, as part of its drug shortage mitigation strategy for eligible drugs, whether working with an entity that provides such hospital or drug purchasing agency with a physical reserve inventory would assist in addressing drug shortages.

Sec. 23. (NEW) (*Effective from passage*) As used in this section and section 24 of this act:

(1) "340B drug" means a drug that (A) is a covered outpatient drug within the meaning of 42 USC 256b; (B) has been subject to any offer for reduced prices by a manufacturer under 42 USC 256b(a)(1); and (C) is purchased by a covered entity. "340B drug" includes a drug that would have been purchased but for the restriction or limitation described in subsection (a) of section 24 of this act;

(2) "Biologic" has the same meaning as provided in section 21a-70d of the general statutes;

(3) "Covered entity" has the same meaning as provided in Section 340B of the Public Health Service Act, 42 USC 256b, as amended from time to time;

(4) "Manufacturer" has the same meaning as provided in section 21a-70 of the general statutes, except that such definition shall include manufacturers of biologics;

(5) "Package" has the same meaning as provided in 21 USC 360eee(11)(A); and

(6) "Pharmacy" has the same meaning as provided in section 20-571 of the general statutes.

Sec. 24. (NEW) (*Effective from passage*) (a) A manufacturer, or an agent or affiliate of such manufacturer, shall not, either directly or indirectly:

(1) Deny, restrict, prohibit, discriminate against or otherwise limit the acquisition of a 340B drug by, or delivery of a 340B drug to, a pharmacy that is under contract with, or otherwise authorized by, a covered entity to receive 340B drugs on behalf of the covered entity unless such receipt is prohibited under federal law; or

(2) Require a covered entity, or a pharmacy that is under contract with a covered entity, to submit any claims or utilization data as a condition for allowing the acquisition of a 340B drug by, or delivery of a 340B drug to, a covered entity, or a pharmacy that is under contract with a covered entity, unless the claims or utilization data sharing is required by the United States Department of Health and Human Services.

(b) (1) On and after July 1, 2024, if the Commissioner of Consumer Protection receives information and has a reasonable belief, after evaluating such information, that any manufacturer, or an agent or affiliate of such manufacturer, has acted in violation of any provision of this section, or regulation adopted thereunder, such manufacturer, or an agent or affiliate of such manufacturer, shall be subject to a civil penalty of not more than fifty thousand dollars for each violation. The commissioner shall issue a notice of violation and civil penalty and may issue such notice by first-class mail or personal service. Such notice shall include: (A) A reference to the section of the general statutes, or regulation of Connecticut state agencies believed or alleged to have been violated; (B) a short and plain language statement of the matters asserted or charged; (C) a description of the activity to cease; (D) a statement of the amount of the civil penalty or penalties that may be imposed; (E) a statement concerning the right to a hearing; and (F) a statement that such manufacturer, or an agent or affiliate of such manufacturer, may, not later than ten business days after receipt of such notice, make a request for a hearing on the matters asserted.

(2) The manufacturer, or an agent or affiliate of such manufacturer, to whom such notice is provided pursuant to subparagraph (A) of subdivision (1) of this subsection may, not later than ten business days

after receipt of such notice, make written application to the Department of Consumer Protection to request a hearing to demonstrate that such violation did not occur. The failure to make a timely request for a hearing shall result in the issuance of a cease and desist order or imposition of a civil penalty by the department. All hearings held under this subsection shall be conducted in accordance with the provisions for contested cases under chapter 54 of the general statutes.

(3) Following any hearing before the Department of Consumer Protection pursuant to subdivision (2) of this subsection, if the department finds, by a preponderance of the evidence, that any manufacturer, or an agent or affiliate of such manufacturer, violated or is violating any provision of this subsection, any regulation adopted thereunder or any order issued by the department, the department shall issue a final cease and desist order in addition to any civil penalty the department imposes.

(c) Nothing in this section shall be construed or applied to be in conflict with or less restrictive than:

(1) Applicable federal law and related regulations, including 21 USC 355-1, as amended from time to time; or

(2) Other laws of this state to the extent such laws are compatible with applicable federal law.

(d) The Commissioner of Consumer Protection shall adopt regulations in accordance with the provisions of chapter 54 of the general statutes to implement the provisions of this section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2024*	New section
Sec. 2	*July 1, 2024*	New section
Sec. 3	*July 1, 2025*	New section
Sec. 4	*July 1, 2025*	New section
Sec. 5	*July 1, 2025*	New section

Sec. 6	*July 1, 2025*	New section
Sec. 7	*July 1, 2025*	New section
Sec. 8	*July 1, 2025*	New section
Sec. 9	*July 1, 2025*	New section
Sec. 10	*July 1, 2025*	New section
Sec. 11	*July 1, 2025*	New section
Sec. 12	*July 1, 2024*	New section
Sec. 13	*July 1, 2024*	New section
Sec. 14	*July 1, 2024*	New section
Sec. 15	*July 1, 2024*	New section
Sec. 16	*July 1, 2025*	New section
Sec. 17	*July 1, 2025*	New section
Sec. 18	*July 1, 2025*	New section
Sec. 19	*January 1, 2025*	New section
Sec. 20	*January 1, 2025*	38a-492d
Sec. 21	*January 1, 2025*	38a-518d
Sec. 22	*July 1, 2024*	New section
Sec. 23	*from passage*	New section
Sec. 24	*from passage*	New section