

**AMENDMENT TO THE SENATE AMENDMENT TO
H.R. 5376
OFFERED BY MR. BURGESS OF TEXAS**

Strike sections 11406 through 11408 and insert the following:

1 **SEC. 11406. NEGOTIATED PRICE CONCESSIONS FOR INSU-**
2 **LIN AT POINT-OF-SALE UNDER PART D OF**
3 **MEDICARE PROGRAM.**

4 (a) IN GENERAL.—Section 1860D–2(d)(1) of the So-
5 cial Security Act (42 U.S.C. 1395w–102(d)(1)) is amend-
6 ed—

7 (1) in subparagraph (A), by striking “Under”
8 and inserting “Subject to subparagraph (D),
9 under”; and

10 (2) by adding at the end the following new sub-
11 paragraph:

12 “(D) NEGOTIATED PRICE CONCESSIONS
13 FOR INSULIN AT POINT-OF-SALE.—

14 “(i) IN GENERAL.—For drugs dis-
15 pensed in plan year 2022 or a subsequent
16 plan year, the minimum percentage de-
17 scribed in clause (ii) for such plan year of
18 price concessions negotiated between man-

1 ufacturers and a prescription drug plan or
2 MA–PD plan (or any entity that provides
3 pharmacy benefits management services
4 under a contract with any such prescrip-
5 tion drug plan or MA–PD plan) and taken
6 into account under subparagraph (B) in
7 determining negotiated prices for the plan
8 year for covered part D drugs that are in-
9 sulin provided under such a plan shall be
10 provided to enrollees of such a plan at
11 pharmacies or by mail order service at the
12 point-of-sale of such drugs.

13 “(ii) AMOUNT OF PRICE CONCES-
14 SION.—For purposes of clause (i), and
15 subject to clause (iii), the minimum per-
16 centage described in this clause is—

17 “(I) for drugs dispensed in plan
18 year 2022, 50 percent;

19 “(II) for drugs dispensed in plan
20 year 2023, 75 percent; and

21 “(III) for drugs dispensed in
22 plan year 2024 or a subsequent plan
23 year, 100 percent.

24 “(iii) MODIFICATION OF MINIMUM
25 PERCENTAGE.—For plan years beginning

1 on or after January 1, 2024, the Secretary
2 may, through notice and comment rule-
3 making, specify a percentage other than
4 the percentage described in clause (ii) for
5 a plan year, except that in specifying such
6 percentage the Secretary shall not specify
7 a percentage that is less than 50 percent
8 of the negotiated price concession for such
9 plan year. Any percentage specified pursu-
10 ant to the authority of the previous sen-
11 tence for a plan year that would be less
12 than the percentage otherwise described in
13 clause (ii) for the plan year may only be
14 applied if such reduction in percentage is
15 justified as a benefit to individuals enrolled
16 under this title.”.

17 (b) INCLUSION OF INFORMATION IN BID SUBMIS-
18 SION.—Section 1860D–11(b)(2) of the Social Security Act
19 (42 U.S.C. 1395w–11(b)(2)) is amended—

20 (1) by redesignating subparagraph (F) as sub-
21 paragraph (G); and

22 (2) by inserting after subparagraph (E) the fol-
23 lowing new subparagraph:

24 “(F) POINT-OF-SALE PRICE CONCESSIONS
25 FOR INSULIN.—For plan years beginning on or

1 after January 1, 2022, an estimate of the ag-
2 gregate price concessions for all insulin nego-
3 tiated by the plan for such plan year.”.

4 (c) GAO STUDY AND REPORT ON INSULIN PRIC-
5 ING.—Not later than 2 years after the date of the enact-
6 ment of this Act, and annually thereafter, the Comptroller
7 General of the United States shall—

8 (1) conduct a study on the effects of the imple-
9 mentation of the requirement described in subpara-
10 graph (D) of section 1860D–2(d)(1) of the Social
11 Security Act (42 U.S.C. 1395w–102(d)(1)), as
12 added by subsection (a), including an analysis of—

13 (A) trends in the list and net prices of in-
14 sulin for qualified prescription drug coverage
15 offered by a prescription drug plan under part
16 D of the Social Security Act or an MA–PD
17 plan under part C of such title;

18 (B) savings on insulin for individuals en-
19 rolled in a prescription drug plan under part D
20 of the Social Security Act or an MA–PD plan
21 under part C of such title;

22 (C) trends in out-of-pocket costs for indi-
23 viduals enrolled in such plans, as compared to
24 individuals enrolled in a group health plan (as
25 defined in section 2791(a) of the Public Health

1 Service Act (42 U.S.C. 300gg–91(a)), a State
2 plan under title XIX of the Social Security Act,
3 or a qualified health plan offered through an
4 Exchange established under title I of the Pa-
5 tient Protection and Affordable Care Act (42
6 U.S.C. 18001 et seq.); and

7 (D) approval and market entry of bio-
8 similar insulin under section 351(k) of the Pub-
9 lic Health Service Act (42 U.S.C. 262); and

10 (2) submit to the Committee on Energy and
11 Commerce and the Committee on Ways and Means
12 in the House of Representatives, and the Committee
13 on Finance in the Senate, a report on the study con-
14 ducted under paragraph (1), with recommendations
15 on how to enhance the access of individuals enrolled
16 in a prescription drug plan under part D of the So-
17 cial Security Act or an MA–PD plan under part C
18 of such title to lower out-of-pocket costs for insulin.

19 (d) TRANSPARENCY.—Section 1860D–1(c)(3) of the
20 Social Security Act (42 U.S.C. 1395w–101(c)(3)) is
21 amended by adding at the end the following new subpara-
22 graph:

23 “(C) ADDITIONAL INFORMATION.—For
24 plan year 2022 and each subsequent plan year,
25 such information referred to in paragraph

1 (2)(A) shall also include, for a plan year, infor-
2 mation regarding the requirement described in
3 subparagraph (D) of section 1860D-2(d)(1)
4 with respect to insulin negotiated by the plan
5 for such plan year.”.

