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From the Office of Corporation Counsel requesting authorization for the Office of Corporation Counsel to select and to enter into a contingency fee agreement with outside legal counsel pursuant to which outside legal counsel will commence a lawsuit on behalf of Milwaukee County against certain manufacturers, pharmacy benefit managers, and/or other entities responsible for alleged manipulation of the market for insulin and insulin-analog diabetes medications that has resulted in an unlawful increase in the entities' profits at the expense of Milwaukee County, by recommending adoption of the following:

**A RESOLUTION**

WHEREAS, diabetes is a public health epidemic, with more than 10 percent of the United States (U.S.) population having been diagnosed with diabetes, and nearly double that number having been diagnosed with prediabetes; and

WHEREAS, due to the prevalence and severity of diabetes, insulin is a necessary, life-saving medicine; and

WHEREAS, insulin was discovered in 1921 and was harvested from animals until 1978, when the first biosynthetic medicine was developed, and very few scientific advances in insulin have occurred since the 1980s; and

WHEREAS, despite the prominence of the disease, and its long-understood and necessary treatment with insulin, the costs associated with diabetes insulin treatment in the U.S. have skyrocketed in the last 20 years, and since 2003, the list price of certain insulins has increased by more than 1,000 percent, greatly outpacing the inflation rate for consumer goods and services; and

WHEREAS, a 2020 study of 2018 insulin pricing found that the average manufacturer price per standard unit across all insulins in the U.S. was just over \$98, but the price in other countries ranged between about \$5 and \$15 per standard unit; and

WHEREAS, a 2022 Yale University study found that 14 percent of insulin users in the U.S. face "catastrophic" levels of spending on insulin, meaning they spent at least 40 percent of their post-subsistence income on insulin; and

WHEREAS, on January 14, 2021, after a two-year investigation, which aimed to shed light on how drug manufacturers price insulin medication, the role played by Pharmacy Benefit Managers (PBMs), and the financial and contractual relationships between these entities, the U.S. Senate Finance Committee published a 90-page report titled, "*Insulin: examining the factors driving the rising cost of a century old drug*" (the Senate Report); and

46 WHEREAS, the Senate Report noted, among other things, that “manufacturers  
47 aggressively raised the Wholesale Acquisition Cost (WAC [the list price]) of their insulin  
48 products, absent significant advances in the efficacy of the drugs;” and  
49

50 WHEREAS, the Senate Report also discussed the flow of money between  
51 manufacturers and PBMs, finding that “relatively little is publicly known about these  
52 financial relationships and the impact they have on insulin costs borne by consumers,  
53 even though PBMs play a major role in the drug supply and payment chain by  
54 negotiating drug rebates and discounts with manufacturers and managing drug benefits  
55 for health care payers,” including Milwaukee County (the County); and  
56

57 WHEREAS, 99 percent of the market for insulin products is controlled by three  
58 manufacturers: Eli Lilly and Company (Eli Lilly), Novo Nordisk, and Sanofi-Aventis, and  
59 three PBMs, CVS Health Corporation (CVS Health), Express Scripts, and OptumRx,  
60 control 89 percent of the PBM market; and  
61

62 WHEREAS, state and local governments around the country have filed lawsuits  
63 against Eli Lilly, Novo Nordisk, Sanofi-Aventis, CVS Health, Express Scripts, and  
64 OptumRx, alleging that they conspired to raise the list prices for insulin products,  
65 resulting in increased profits for the pharmaceutical companies at the expense of self-  
66 funded health care payers like the County; and  
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68 WHEREAS, it has been estimated that self-funded health care payers like the  
69 County have been overcharged for insulin by at least 75 percent; and  
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71 WHEREAS, it is prudent for the County to explore every option available to  
72 recover overpayments, and to combat abusive and unlawful market manipulation in the  
73 pharmaceutical industry, including litigation against pharmaceutical companies and/or  
74 PBMs whose actions may have contributed to or exacerbated inflated prices for insulin  
75 and insulin-analog diabetes medications within the County; and  
76

77 WHEREAS, the Committee on Judiciary, Law Enforcement, and General  
78 Services, at its meeting of March 4, 2024, recommended adoption of File No. 24-333  
79 (vote 5-0); now, therefore,  
80

81 BE IT RESOLVED, the Milwaukee County Board of Supervisors (County Board)  
82 hereby authorizes the Office of Corporation Counsel (OCC), at its discretion, to select  
83 outside legal counsel and to enter into a Contingency Fee Agreement with outside legal  
84 counsel on behalf of Milwaukee County (the County), pursuant to which outside legal  
85 counsel shall represent the County in litigation against any pharmaceutical company,  
86 Pharmacy Benefit Manager (PBM), and/or other entity that previously engaged in or  
87 continues to engage in market manipulation practices that inflated the prices for insulin  
88 and insulin-analog diabetes medication within the County, and further outside legal  
89 counsel will not be compensated for such representation unless the County receives a  
90 financial benefit as a result of any such lawsuits; and  
91

92 BE IT FURTHER RESOLVED, the OCC is authorized, and requested to provide  
93 a report to the County Board within a reasonable time of the engagement of outside  
94 legal counsel, and to provide updates thereafter on the status of any lawsuits as  
95 reasonably required to keep the County Board apprised of their progress.

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