AMENDMENT TO
RULES COMMITTEE PRINT 116–41
OFFERED BY MR. ROONEY OF FLORIDA

Add at the end of the bill the following new section
(and conform the table of contents accordingly):

1 SEC. 812. REQUIREMENT THAT DIRECT-TO-CONSUMER TELEVISION ADVERTISEMENTS FOR PRESCRIPTION DRUGS AND BIOLOGICAL PRODUCTS INCLUDE LIST PRICE OF SUCH DRUGS AND PRODUCTS.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 401, is further amended by adding at the end the following new section:

“SEC. 1150E. REQUIREMENT THAT DIRECT-TO-CONSUMER TELEVISION ADVERTISEMENTS FOR PRESCRIPTION DRUGS AND BIOLOGICAL PRODUCTS INCLUDE LIST PRICE OF SUCH DRUGS AND PRODUCTS.

“(a) In General.—Subject to subsection (b), the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services (referred to in this section as the ‘Secretary’), shall require that each direct-
to-consumer advertisement on television (including broadcast, cable, streaming, or satellite media) for a prescription drug or biological product for which payment is made available under title XVIII or XIX includes a written statement indicating the current list price for a 30-day supply of (or, if determined more appropriate by the Secretary, a typical course of treatment with) such drug or product as follows: ‘The list price for a [30-day supply of, or a typical course of treatment with] [name of prescription drug or biological product] is [current list price]. If you have health insurance that covers drugs, your cost may be different.’. Such statement shall be presented at the end of such an advertisement against a contrasting background for sufficient duration and in a size and style of font that allows such statement to be read easily.

“(b) EXCEPTION.—The requirement described in subsection (a) shall not apply with respect to a prescription drug or biological product that has a current list price less than $35 per month for a 30-day supply of, or a typical course of treatment with, such drug or product.

“(c) IDENTIFICATION OF NONCOMPLIANT DRUGS AND PRODUCTS.—In the case that a direct-to-consumer advertisement described in subsection (a) does not include a written statement as required under such subsection and is not excepted with respect to such statement under sub-
section (b), the Secretary shall identify the prescription drug or biological product that is the subject of such advertisement as a drug or product advertised in violation of the requirement of subsection (a). The Secretary shall maintain a public list of all prescription drugs and biological products identified pursuant to the previous sentence.

“(d) DEFINITIONS.—In this section:

“(1) CURRENT LIST PRICE.—The term ‘current list price’, with respect to a prescription drug or biological product described in subsection (a) and a direct-to-consumer advertisement described in such subsection for such drug or product, means the wholesale acquisition cost (as defined in section 1847A(c)(6)) of such drug or product as of the first day of the quarter during which such advertisement is aired or otherwise broadcast.

“(2) TYPICAL COURSE OF TREATMENT.—The term ‘typical course of treatment’, with respect to a prescription drug or biological product described in subsection (a) and a direct-to-consumer advertisement described in such subsection for such drug or product, means the typical course of treatment associated with the primary indication addressed in such
advertisement for which such drug or product is prescribed.”. 