SENATE, No. 2389

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED APRIL 5, 2018

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Requires New Jersey State Board of Pharmacy to establish prescription drug pricing disclosure website and certain pharmaceutical manufacturing companies to provide prescription drug price information.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the disclosure of prescription drug price information and supplementing P.L.2003, c.280 (C.45:14-40 et seq.) and Title 24 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. The New Jersey State Board of Pharmacy shall develop a prescription drug pricing disclosure website in order to make prescription drug price information available to New Jersey practitioners. The website shall have a dedicated link that is prominently displayed on the board's home page.

b. The website shall include, at a minimum, the following data elements, separated by therapeutic category:

(1) name of the product;

(2) whether the drug is brand name or generic;

(3) drug strength;

(4) per-unit wholesale acquisition cost of the drug, provided to the board by pharmaceutical manufacturing companies pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill); and

(5) any disclaimers deemed appropriate by the board.

c. The board shall actively seek grant funds to implement the provisions of this section, and implementation shall be contingent upon the board obtaining sufficient grant funds for the development, operation, and continued maintenance of the prescription drug pricing disclosure website. The board shall have the authority to enter into a contract for the administration of the board's responsibilities pursuant to this section.

d. Each State board and other entity that, under Title 45 of the Revised Statutes, regulates individuals with prescriptive authority in New Jersey shall advise the licensees of the board or entity at least once annually of the opportunity to access the prescription drug pricing disclosure website.

2. a. For the purposes of the prescription drug pricing disclosure website required by the New Jersey State Board of Pharmacy pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill), each pharmaceutical manufacturing company that engages in prescription drug marketing, either directly or through the use of a pharmaceutical marketer, with a New Jersey practitioner as defined in section 2 of P.L.2003, c.280 (C.45:14-41), a practitioner's designee, or any member of a practitioner's staff, shall provide to the New Jersey State Board of Pharmacy, no later than January first, April first, July first, and October first of each calendar year, the current wholesale acquisition cost information for the pharmaceutical drugs or biological products marketed in the State by that company.

b. The provisions of this section shall only apply to prescription drug marketing engaged in by a pharmaceutical manufacturing company and a practitioner, a practitioner's designee, or any member of a practitioner's staff, while physically present in the state of New Jersey.

c. Any pharmaceutical manufacturing company that fails to comply with the requirements of this section shall be liable to a penalty as follows: for the first offense, not less than $200 nor more than $5,000; and, for the second and each succeeding offense, not less than $1,000 nor more than $20,000. The penalties shall be enforced by the Director of Consumer Affairs in the Department of Law and Public Safety in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

d. For purposes of this section:

"Pharmaceutical marketer" means a person who, while employed by or under contract to represent a pharmaceutical manufacturing company, engages in prescription drug marketing activities.

"Prescription drug marketing" means any activity, including, but not limited to, in-person meetings, physical mailings, telephonic conversations, video conferencing, electronic mail, or facsimile, that provides educational or marketing information or materials regarding a prescription drug.

"Wholesale acquisition cost" means the pharmaceutical manufacturing company's list price for the pharmaceutical drug or biological product to wholesalers or direct purchasers in the United States for the most recent month for which the information is available, as reported in wholesale price guides or other publications of pharmaceutical drug or biological product pricing data, not including prompt pay or other discounts, rebates, or reductions in price.

3. This act shall take effect immediately.

STATEMENT

This bill requires the New Jersey State Board of Pharmacy to establish a prescription drug pricing disclosure website. In order to make this information available for the website, the bill further requires certain pharmaceutical manufacturing companies to provide prescription drug price information to the board.

Under the bill, the board is required to develop a prescription drug pricing disclosure website in order to make prescription drug price information available to New Jersey practitioners, who are individuals currently licensed, registered, or otherwise authorized in the State to administer or prescribe drugs in the course of professional practice. The website must have a dedicated link that

is prominently displayed on the board's home page and include, at a minimum, the following data elements, separated by therapeutic category: (1) name of the product; (2) whether the drug is brand name or generic; (3) drug strength; (4) per-unit wholesale acquisition cost of the drug, provided to the board by pharmaceutical manufacturing companies as required by the bill; and (5) any disclaimers deemed appropriate by the board. Each State board and other entity that, under Title 45 of the Revised Statutes, regulates individuals with prescriptive authority in New Jersey is required to advise the licensees of the board or entity at least once annually of the opportunity to access the prescription drug pricing disclosure website.

The bill also requires that each pharmaceutical manufacturing company that engages in any form of prescription drug marketing, either directly or through the use of a pharmaceutical marketer, with a New Jersey practitioner, a practitioner's designee, or any member of a practitioner's staff, to provide to the board, no later than January first, April first, July first, and October first of each calendar year, the current wholesale acquisition cost information for the pharmaceutical drugs or biological products marketed in the State by that company. Any pharmaceutical manufacturing company that fails to comply with these requirements will be liable to a penalty as follows: for the first offense, not less than $200 nor more than $5,000; and, for the second and each succeeding offense, not less than $1,000 nor more than $20,000.

Under the bill, "wholesale acquisition cost" means the pharmaceutical manufacturing company's list price for the pharmaceutical drug or biological product to wholesalers or direct purchasers in the United States for the most recent month for which the information is available, as reported in wholesale price guides or other publications of pharmaceutical drug or biological product pricing data, not including prompt pay or other discounts, rebates, or reductions in price.