

[First Reprint]

SENATE, No. 2389

STATE OF NEW JERSEY
218th LEGISLATURE

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Assemblyman Tully and Assemblywoman Swain**

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 reported by the Senate Health, Human Services and Senior Citizens Committee on June 3, 2019, with amendments.

(Sponsorship Updated As Of: 12/17/2019)

1 AN ACT concerning the disclosure of prescription drug price
2 information and supplementing P.L.2003, c.280 (C.45:14-
3 40 et seq.) and Title 24 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. The New Jersey State Board of Pharmacy shall develop a
9 prescription drug pricing disclosure website in order to make
10 prescription drug price information available to New Jersey
11 practitioners. The website shall have a dedicated link that is
12 prominently displayed on the board's home page.

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

15 (1) name of the product;

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

17 (3) drug strength;

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

22 (5) any disclaimers deemed appropriate by the board ¹that are
23 not inconsistent with State or federal law or regulations¹ .

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

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

36
37 2. a. For the purposes of the prescription drug pricing
38 disclosure website required by the New Jersey State Board of
39 Pharmacy pursuant to section 1 of P.L. , c. (C.) (pending
40 before the Legislature as this bill), each pharmaceutical
41 manufacturing company that engages in prescription drug
42 marketing, either directly or through the use of a pharmaceutical
43 marketer, with a New Jersey practitioner as defined in section 2 of
44 P.L.2003, c.280 (C.45:14-41), a practitioner's designee, or any
45 member of a practitioner's staff, shall provide to the New Jersey

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted June 3, 2019.

1 State Board of Pharmacy, no later than ¹【January first, April first,
2 July first, and October first】 30 days after the end¹ of each ¹quarter
3 of the¹ calendar year, the current wholesale acquisition cost
4 information for the pharmaceutical drugs or biological products
5 marketed in the State by that company.

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

11 c. Any pharmaceutical manufacturing company that fails to
12 comply with the requirements of this section shall be liable to a
13 penalty as follows: for the first offense, not less than \$200 nor
14 more than \$5,000; and, for the second and each succeeding offense,
15 not less than \$1,000 nor more than \$20,000. The penalties shall be
16 enforced by the Director of Consumer Affairs in the Department of
17 Law and Public Safety in a summary proceeding in accordance with
18 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
19 10 et seq.).

20 d. For purposes of this section:

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

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

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

37

38 3. This act shall take effect immediately.