

ASSEMBLY, No. 2671

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Prohibits excessive charges for drugs developed by publicly funded research.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT requiring reasonable pricing of drugs developed by
2 publicly funded research and supplementing Title 24 of the
3 Revised Statutes.

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

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8 1. a. If a drug, biologic, or other health care technology approved
9 by the federal Food and Drug Administration was developed, partially
10 or entirely, through research and development that is directly or
11 indirectly supported by the federal or State government, it shall be
12 unlawful for any person to sell, offer to sell, or advertise for sale the
13 drug, biologic, or technology to any purchaser in this State at a unit
14 price that is greater than the benchmark unit price established pursuant
15 to subsection b. of this section, or that constitutes discriminatory
16 pricing as set forth in subsection c. of this section.

17 b. The benchmark unit price for a drug, biologic, or other health
18 care technology is the lowest price charged to countries in the
19 Organization for Economic Co-Operation and Development for the
20 same drug, biologic, or technology, that have the largest gross
21 domestic product with a per capita income that is not less than half of
22 the per capita income of the United States.

23 c. For the purposes of this section, a cost-based reasonable
24 pricing formula that is utilized shall be considered to result in
25 discriminatory pricing if the contract for sale of the drug, biologic, or
26 other health care technology places a limit on supply, or employs any
27 other measure that has the effect of providing access to such drug,
28 biologic, or technology on terms or conditions that are less favorable
29 than the terms or conditions provided to a foreign purchaser, other than
30 a charitable or humanitarian organization, of the drug, biologic, or
31 technology.

32 d. The Commissioner of Health shall, pursuant to the
33 Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.),
34 develop rules and procedures to access the information necessary to
35 determine whether a drug, biologic, or other health care technology
36 was developed, partially or entirely, through research and development
37 that was directly or indirectly supported by the federal or State
38 government, and to effectuate the pricing review necessary to enforce
39 the provisions of P.L. , c. (C.) (pending before the Legislature as
40 this bill). If the Commissioner of Health finds that it is in the public
41 interest to waive the price requirements of this section for a specific
42 drug, biologic, or other health care technology, the commissioner may,
43 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
44 (C.52:14B-1 et seq.), issue a waiver of the price requirements under
45 this section for the specific drug, biologic, or technology.

46 e. Nothing in this section shall be construed to impose liability on
47 news media that accept or publish advertising for a drug, biologic, or

1 other health care technology for which the price does not comply with
2 the provisions of this act.

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4 2. This act shall take effect on the first day of the 13th month
5 next following the date of enactment.

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STATEMENT

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10 This bill prohibits any person from charging excessive prices for
11 drugs developed by publicly funded research.

12 Under the bill, if a drug, biologic, or other health care technology
13 approved by the federal Food and Drug Administration was developed,
14 partially or entirely, through research and development that is directly
15 or indirectly supported by the federal or State government, it is
16 unlawful for any person to sell, offer to sell, or advertise for sale the
17 drug, biologic, or technology to any purchaser in this State at a unit
18 price that is greater than a benchmark unit price or that constitutes
19 discriminatory pricing.

20 The benchmark unit price for a drug, biologic, or other health care
21 technology is the lowest price charged to countries in the Organization
22 for Economic Co-Operation and Development for the same drug,
23 biologic, or technology, that have the largest gross domestic product
24 with a per capita income that is not less than half of the per capita
25 income of the United States.

26 The bill provides that a cost-based reasonable pricing formula
27 constitutes discriminatory pricing if the contract for sale of the drug,
28 biologic, or other health care technology places a limit on supply, or
29 employs any other measure that has the effect of providing access to
30 such drug, biologic, or technology on terms or conditions that are less
31 favorable than the terms or conditions provided to a foreign purchaser
32 (other than a charitable or humanitarian organization).

33 The Commissioner of Health is required, pursuant to the
34 “Administrative Procedure Act,” to develop rules and procedures to
35 access the information necessary to determine whether a drug,
36 biologic, or other health care technology was developed, partially or
37 entirely, through research and development that was directly or
38 indirectly supported by the federal or State government, and effectuate
39 the pricing review necessary to enforce the provisions the bill. If the
40 Commissioner of Health finds that it is in the public interest to waive
41 the price requirements established under the bill for a specific drug,
42 biologic, or other health care technology, the commissioner may,
43 pursuant to the “Administrative Procedure Act,” issue a waiver of the
44 price requirements for the specific drug, biologic, or technology.