

CHAPTER 404

AN ACT concerning the disclosure of prescription drug price information and supplementing P.L.2006, c.84 (C.45:14-81 et seq.) and Title 24 of the Revised Statutes.

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

C.45:14-82.1 Prescription drug pricing disclosure website.

1. a. As provided in subsection c. of this section, the Division of Consumer Affairs in the Department of Law and Public Safety 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 division'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 division by pharmaceutical manufacturing companies pursuant to section 2 of P.L.2019, c.404 (C.24:6N-1); and

(5) any disclaimers deemed appropriate by the division that are not inconsistent with State or federal law or regulations .

c. The division shall actively seek grant funds to implement the provisions of this section, and implementation shall be contingent upon the division obtaining sufficient grant funds for the development, operation, and continued maintenance of the prescription drug pricing disclosure website. The division shall have the authority to enter into a contract for the administration of the division's responsibilities pursuant to this section. The division shall establish the disclosure website no later than six months after it receives grant funds in an amount sufficient to develop and operate the website as provided in this subsection.

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.

C.24:6N-1 Current wholesale acquisition cost information provided quarterly; non-compliance, penalties; definitions.

2. a. For the purposes of the prescription drug pricing disclosure website required pursuant to section 1 of P.L.2019, c.404 (C.45:14-82.1), 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 Division of Consumer Affairs in the Department of Law and Public Safety, no later than 30 days after the end of each quarter of the 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.

Approved January 21, 2020.