

# STATE OF NEW YORK

8253

2019-2020 Regular Sessions

## IN ASSEMBLY

June 10, 2019

Introduced by M. of A. D. ROSENTHAL -- read once and referred to the  
Committee on Health

AN ACT to amend the public health law, in relation to requiring certain  
manufacturers of prescription drugs to notify the drug utilization  
review board of the proposed increase of the wholesale acquisition  
cost of such prescription drugs

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. The public health law is amended by adding a new section  
2 277-a to read as follows:

3 § 277-a. Notification of prescription drug price increases by manufac-  
4 turers. 1. This section shall apply to a manufacturer of a prescription  
5 drug that is purchased or reimbursed by any of the following:

6 (a) An insurance company authorized in this state to write accident  
7 and health insurance, a company organized pursuant to article forty-  
8 three of the insurance law, a municipal cooperative health benefit plan  
9 established pursuant to article forty-seven of the insurance law, an  
10 organization certified pursuant to article forty-four of this chapter,  
11 an institution of higher education certified pursuant to section one  
12 thousand one hundred twenty-four of the insurance law, or the New York  
13 state health insurance plan established pursuant to article eleven of  
14 the civil service law; or

15 (b) A pharmacy benefit manager, including an entity that directly or  
16 through an intermediary, manages the prescription drug coverage provided  
17 by a health insurer under a contract or policy delivered or issued for  
18 delivery in this state or a health plan subject to section three hundred  
19 sixty-four-j of the social services law, including the processing and  
20 payment of claims for prescription drugs, the performance of drug utili-  
21 zation review, the processing of drug prior authorization requests, the  
22 adjudication of appeals or grievances related to prescription drug

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 coverage, contracting with network pharmacies, and controlling the cost  
2 of covered prescription drugs.

3 2. (a) A manufacturer of a prescription drug with a wholesale acquisi-  
4 tion cost of more than forty dollars for a course of therapy shall noti-  
5 fy the drug utilization review board if the increase in the wholesale  
6 acquisition cost of such prescription drug is more than ten percent,  
7 including the proposed increase and the cumulative increases that  
8 occurred within the previous two calendar years prior to the current  
9 year. For purposes of this section, a "course of therapy" is defined as  
10 either of the following:

11 (i) the recommended daily dosage units of a prescription drug pursuant  
12 to its prescribing label as approved by the federal Food and Drug Admin-  
13 istration for thirty days; or

14 (ii) the recommended daily dosage units of a prescription drug pursu-  
15 ant to its prescribing label as approved by the federal Food and Drug  
16 Administration for a normal course of treatment that is less than thirty  
17 days.

18 (b) The notice required by paragraph (a) of this subdivision shall be  
19 provided in writing to the drug utilization review board at least sixty  
20 days prior to the planned effective date of the increase.

21 (c) (i) The notice required by paragraph (a) of this subdivision shall  
22 include the date of the increase, the current wholesale acquisition cost  
23 of the prescription drug, and the dollar amount of the future increase  
24 in the wholesale acquisition cost of the prescription drug.

25 (ii) The notice required by paragraph (a) of this subdivision shall  
26 include a statement regarding whether a change or improvement in the  
27 drug necessitates the price increase. If so, the manufacturer shall  
28 describe the change or improvement.

29 (d) In the event that a manufacturer of a prescription drug subject to  
30 this section does not report the information required in paragraph (a)  
31 of this subdivision, the commissioner is authorized to levy a civil  
32 penalty, after notice and a hearing, against such manufacturer of up to  
33 one thousand dollars per day for every day after the reporting period  
34 described in this section that the required information is not reported.

35 § 2. This act shall take effect immediately.