

# STATE OF NEW YORK

---

663--A

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 2021

---

Introduced by M. of A. D. ROSENTHAL, DICKENS, COLTON, WILLIAMS, SEAWRIGHT, COOK, O'DONNELL, SIMON, ABINANTI, JACOBSON, GRIFFIN -- Multi-Sponsored by -- M. of A. GALEF, SALKA -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to requiring certain manufacturers of prescription drugs to notify the superintendant of any proposed increase of the wholesale acquisition cost of such prescription drugs

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

1 Section 1. The insurance law is amended by adding a new section 111-a  
2 to read as follows:

3 § 111-a. Notification of prescription drug price increases by manufac-  
4 turers. (a) This section shall apply to a manufacturer of a prescription  
5 drug that is purchased or reimbursed in this state by any of the follow-  
6 ing:

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

16 (2) A pharmacy benefit manager, including an entity that directly or  
17 through an intermediary, manages the prescription drug coverage provided

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

LBD05130-03-2

1 by a health insurer under a contract or policy delivered or issued for  
2 delivery in this state or a health plan subject to section three hundred  
3 sixty-four-j of the social services law, including the processing and  
4 payment of claims for prescription drugs, the performance of drug utili-  
5 zation review, the processing of drug prior authorization requests, the  
6 adjudication of appeals or grievances related to prescription drug  
7 coverage, contracting with network pharmacies, and controlling the cost  
8 of covered prescription drugs.

9 (b) (1) A manufacturer of a prescription drug with a wholesale acqui-  
10 sition cost of more than forty dollars for a course of therapy shall  
11 notify the superintendent, his or her deputy or other officer designated  
12 by the superintendent, if the increase in the wholesale acquisition cost  
13 of such prescription drug is more than ten percent, including the  
14 proposed increase and the cumulative increases that occurred within the  
15 previous twelve months prior to the current year. For purposes of this  
16 section, a "course of therapy" is defined as either of the following:

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

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

24 (2) (i) The notice required by paragraph (1) of this subsection shall  
25 be provided in writing to the superintendent at least sixty days prior  
26 to the planned effective date of the increase.

27 (ii) The superintendent shall forthwith publish the notice required by  
28 paragraph (a) of this subdivision on the department of financial  
29 services website within five days of its receipt.

30 (3) (i) The notice required by paragraph (1) of this subsection shall  
31 include the date of the increase, the current wholesale acquisition cost  
32 of the prescription drug, and the dollar amount of the future increase  
33 in the wholesale acquisition cost of the prescription drug.

34 (ii) The notice required by paragraph (1) of this subsection shall  
35 include a statement regarding whether a change or improvement in the  
36 drug necessitates the price increase. If so, the manufacturer shall  
37 describe the change or improvement.

38 (4) The superintendent shall determine the confidentiality of any  
39 supporting documentation a manufacturer designates as a trade secret and  
40 that such manufacturer may submit with the required notice. Should such  
41 supporting documentation be deemed confidential by the superintendent,  
42 the supporting documentation shall not be subject to disclosure except  
43 where and as the superintendent determines that disclosure is in the  
44 public interest.

45 (5) In the event that a manufacturer of a prescription drug subject to  
46 this section does not report the information required in paragraph (1)  
47 of this subsection, the superintendent is authorized to impose any  
48 penalty or remedy authorized by this chapter, after notice and a hear-  
49 ing, against such manufacturer of up to ten thousand dollars per day for  
50 every day after the reporting period described in this section that the  
51 required information is not reported.

52 § 2. This act shall take effect immediately.