

# STATE OF NEW YORK

8836

## IN ASSEMBLY

January 18, 2024

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

AN ACT to amend the public health law, in relation to requiring the commissioner of health to include in annual reports information regarding the cost and increase in cost of certain prescription drugs

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

1 Section 1. Subdivision 1 of section 277 of the public health law, as  
2 amended by section 18 of part A of chapter 56 of the laws of 2013, is  
3 amended to read as follows:

4 1. The commissioner, in consultation with the drug utilization review  
5 board, shall undertake periodic reviews, at least annually, of the  
6 preferred drug program which shall include consideration of:

7 (a) the volume of prior authorizations being handled, including data  
8 on the number and characteristics of prior authorization requests for  
9 particular prescription drugs;

10 (b) the quality of the program's responsiveness, including the quality  
11 of the administrator's responsiveness;

12 (c) complaints received from patients and providers;

13 (d) (i) a list of the ten prescription drugs on which the state  
14 expends the most money and for which the wholesale acquisition cost has  
15 increased by fifty percent or more over the past five years or by ten  
16 percent or more during the previous calendar year. The commissioner  
17 shall include the percentage of the wholesale acquisition cost increase  
18 for each drug on the list; rank the drugs on the list from those with  
19 the largest increase in wholesale acquisition cost to those with the  
20 smallest increase; indicate whether each drug was included on the list  
21 based on its cost increase over the past five years or during the previ-  
22 ous calendar year, or both; and provide the state's total expenditure  
23 for each drug on the list during the most recent calendar year; and

24 (ii) a list of the ten prescription drugs on which the state expends  
25 the most money and for which the cost to the state, net of rebates and  
26 other price concessions, has increased by fifty percent or more over the  
27 past five years or by ten percent or more during the previous calendar

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

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1 year. The commissioner shall rank the drugs on the list from those with  
2 the greatest increase in net cost to those with the smallest increase  
3 and indicate whether each drug was included on the list based on its  
4 cost increase over the past five years or during the previous calendar  
5 year, or both; and

6 (iii) a manufacturer of a prescription drug that appears on a list as  
7 described in subparagraph (i) or (ii) of this paragraph shall submit to  
8 the commissioner a report that explains: (A) all material factors that  
9 have contributed to the wholesale acquisition cost increase for such  
10 drug including but not limited to materials and manufacturing costs,  
11 spending on research and development costs, spending on marketing and  
12 advertising, and spending on patient assistance programs; (B) the  
13 percentage of the total wholesale acquisition cost increase attributable  
14 to each factor; (C) an explanation of the role of each factor in  
15 contributing to the wholesale acquisition cost increase; (D) the total  
16 revenue and the net profit of the manufacturer for the most recent  
17 calendar year; and (E) any additional information the manufacturer  
18 chooses to provide related to drug pricing decisions;

19 (e) the savings attributable to the state, and to each county and the  
20 city of New York, due to the provisions of this article;

21 [~~e~~] (f) the aggregate amount of supplemental rebates received in the  
22 previous fiscal year and in the current fiscal year, to date; and such  
23 amounts are to be broken out by fiscal year and by month;

24 [~~f~~] (g) the education and outreach program established by section  
25 two hundred seventy-six of this [~~article~~] title.

26 § 2. This act shall take effect immediately.