§ 111. Investigation by the superintendent with respect to prescription drugs. (a) Whenever it shall appear to the superintendent, either upon complaint or otherwise, that in the advertisement, purchase or sale within this state of any prescription drug, which is contemplated to be paid by a policy approved by the department for offering within the state, has increased over the course of any twelve months by more than fifty percent to an amount greater than five dollars per unit and if it is suspected that any person, partnership, corporation, company, trust or association, or any agent or employee thereof, shall have employed, or employs, or is about to employ any device, scheme or artifice to defraud or for obtaining money or property by means of any false pretense, representation or promise, or that any person, partnership, corporation, company, trust or association, or any agent or employee thereof, shall have made, makes or attempts to make within or from this state or shall have engaged in or engages in or is about to engage in any practice or transaction or course of business relating to the purchase, exchange, or sale of prescription drugs which is fraudulent or in violation of law and which has operated or which would operate as a fraud upon the purchaser, or that any agent or employee thereof, has sold or offered for sale or is attempting to sell or is offering for sale any prescription drug for which the price has increased fifty percent over the prior calendar year to an amount greater than five dollars per unit, and the superintendent believes it to be in the public interest that an investigation be made, he or she may in their sole discretion either require or permit such person, partnership, corporation, company, trust or association, or any agent or employee thereof, to file with the department a statement in writing under oath or otherwise as to all the facts and circumstances concerning the price increase which he or she believes it to be in the public interest to investigate, and for that purpose may prescribe forms upon which such statements shall be made. The superintendent may also require such other data and information as he or she may deem relevant and may make such special and independent investigations as he or she may deem necessary in connection with the matter.

(b) In addition to any other power granted by law, the superintendent, his or her deputy or other officer designated by the superintendent is empowered to subpoena witnesses, compel their attendance, examine them

under oath and require the production of any books or papers which he or she deems relevant or material to the inquiry. Such power of subpoena shall be enforced as though the subpoena were issued under section three hundred six of the financial services law.

(c) If any person, partnership, corporation, company, trust or association, fails to submit a written statement required by the superintendent under subsection (a) of this section or fails to comply with a subpoena issued pursuant to subsection (b) of this section, the superintendent may, after notice and a hearing, levy a civil penalty not to exceed to one thousand dollars per day that the failure continues.

(d) Notwithstanding any law to the contrary, any information obtained in an investigation under this section shall be confidential and shall not be subject to disclosure by the department except to the drug accountability board, which may review the information and, as necessary, include any such information in its report. The superintendent may also disclose any such information necessary to protect the public, but such disclosures shall to the greatest extent possible not identify a specific manufacturer or prices charged for drugs by such manufacturer.