§ 278. Prescription drug retail price lists. 1. The department shall make prescription drug retail price lists of pharmacies, with the name and address of each pharmacy, available to the public in a database on its website at all times. The website shall enable consumers to search the database for drug retail prices of pharmacies selected by zip code of the pharmacy and other appropriate factors, including enabling consumers to display and compare prices for one or more selected drugs as well as for the full list. The website shall enable consumers to download and print displayed information. The website shall accommodate reasonably anticipated and actual public use of the database. The database shall display drug retail prices for the compendium of the one hundred fifty most frequently prescribed drugs received by the department from the department of education under section sixty-eight hundred twenty-six of the education law.

2. The department shall extract pharmacy retail price information, showing the actual price to be paid to the pharmacy by a retail purchaser for any listed drug at the listed dosage, from usual and customary price data collected by the medical assistance program under title eleven of article five of the social services law. Provided, however, that any pharmacy participating in the medical assistance program shall provide the usual and customary price data for the one hundred fifty most frequently prescribed drugs under section sixty-eight hundred twenty-six of the education law to the department through the same mechanism that the usual and customary price data is received under the medical assistance program. If the department is unable to process such data, the pharmacy shall fax or electronically transmit to the department the usual and customary price data for the one hundred fifty most frequently prescribed drugs under section sixty-eight hundred twenty-six of the education law. The prescription drug retail price list database shall be subject to and conform with applicable state and federal requirements, including those concerning privacy, confidentiality and use of information. The commissioner shall seek a waiver of any federal requirement necessary for development and implementation of the database under this section. Upon implementation of this system, this section shall apply in place of any inconsistent provision of section sixty-eight hundred twenty-six of the education

law. The prescription drug retail price list database on the department's website shall list a pharmacy's price information extracted under this subdivision as the pharmacy's retail price for each drug. The department shall update the prescription drug retail price list at least weekly using the most recent retail price for each drug for each pharmacy as reasonably practicable.

2-a. Pharmacies which do not provide usual and customary price data in the manner specified in subdivision two of this section shall transmit the drug retail price list compiled pursuant to section sixty-eight hundred twenty-six of the education law to the department in a manner and frequency prescribed by the department and the department shall extract the usual and customary price data information from such drug retail price list; provided that the commissioner may exempt any category of pharmacy not required to compile such list pursuant to section sixty-eight hundred twenty-six of the education law.

3. The prescription drug retail price list database on the department's website shall contain an advisory statement by the department alerting consumers of the need to tell their health care practitioner and pharmacist about all the medications they may be taking and to ask them how to avoid harmful interactions between the drugs, if any. A pharmacy may submit to the department a brief statement, acceptable to the department, to be included on the website in conjunction with the pharmacy's prescription drug retail price information: (a) concerning discounts from its listed retail prices that may be available to consumers and (b) any limitations that the pharmacy may have as to what group or groups of customers it serves.

4. In developing and implementing the prescription drug retail price list database system, the department may seek and shall receive the assistance of the departments of education and law.

5. The commissioner shall provide an interim progress report concerning efforts to develop and implement the database system under this section not later than January thirty-first, two thousand six. The report shall include a projected completion date, a description of

obstacles to development and implementation of the database system, and an estimate of the costs to complete the implementation of the database system.

6. As used in this section, "pharmacy" means any place in which drugs or prescriptions are possessed for the purpose of retailing, or in which drugs or prescriptions are retailed, or in which drugs or prescriptions are by advertising or otherwise offered for sale at retail.