

2020 -- S 2318

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LC003958

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

AN ACT

RELATING TO FOOD AND DRUGS - DRUG COST TRANSPARENCY ACT

Introduced By: Senators Ruggerio, Goodwin, McCaffrey, Miller, and Coyne

Date Introduced: February 05, 2020

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 21 of the General Laws entitled "FOOD AND DRUGS" is hereby
2 amended by adding thereto the following chapter:

CHAPTER 38

DRUG COST TRANSPARENCY ACT

21-38-1. Short title.

This chapter shall be known and may be cited as the "Drug Cost Transparency Act".

21-38-2. Definitions.

As used in this chapter:

9 (1) "Animal health product" means a medical product approved and licensed for use in
10 animal or veterinary medicine, including a pharmaceutical, a biologic, an insecticide, and a
11 parasiticide.

(2) "Director" means the director of the Rhode Island department of health.

(3) "Department" means the Rhode Island department of health.

(4) "Pharmaceutical drug manufacturer" means a person engaged in the business of producing, preparing, propagating, compounding, converting, processing, packaging, repackaging, labeling, or distributing a drug. The term "pharmaceutical drug manufacturer" does not include a wholesale distributor or retailer of prescription drugs or a pharmacist licensed under chapter 19.1 of title 5.

(5) "Prescription drug" and "drug" means a drug as defined in 21 U.S.C. § 321, except

1 that the term "prescription drug" or "drug" does not include a device or an animal health product.

2 (6) "Wholesale acquisition cost" means, with respect to a drug, the pharmaceutical drug
3 manufacturer's list price for the drug charged to wholesalers or direct purchasers in the United
4 States, as reported in wholesale price guides or other publications of drug pricing data. The cost
5 does not include any rebates, prompt pay or other discounts, or other reductions in price.

6 **21-38-3. Disclosure of drug pricing information.**

7 (a) On or before February 1, 2021 and every February 1 of each year thereafter, a
8 pharmaceutical drug manufacturer shall submit a report to the director stating the current
9 wholesale acquisition cost information for the United States Food and Drug Administration-
10 approved drugs sold in or offered for sale in this state by that manufacturer.

11 (b) The director shall develop an Internet website to provide to the general public drug
12 price information submitted under subsection (a) of this section. The Internet website shall be
13 made available on the department of health's Internet website with a dedicated link that is
14 prominently displayed on the home page or by a separate easily identifiable Internet address.

15 (c) This subsection applies only to a drug with a wholesale acquisition cost of at least one
16 hundred dollars (\$100) for a thirty (30) day supply before the effective date of an increase
17 described by this subsection. Not later than the thirtieth day after the effective date of an increase
18 of forty percent (40%) or more over the preceding three (3) calendar years or fifteen percent
19 (15%) or more in the preceding calendar year in the wholesale acquisition cost of a drug to which
20 this subsection applies, a pharmaceutical drug manufacturer shall submit a report to the director.

21 The report must include the following information:

22 (1) The name of the drug;

23 (2) Whether the drug is a brand name or a generic;

24 (3) The effective date of the change in wholesale acquisition cost;

25 (4) Aggregate, company-level research and development costs for the most recent year
26 for which final audit data is available;

27 (5) The name of each of the manufacturer's prescription drugs approved by the United
28 States Food and Drug Administration in the previous three (3) calendar years;

29 (6) The name of each of the manufacturer's prescription drugs that lost patent exclusivity
30 in the United States in the previous three (3) calendar years; and

31 (7) A statement regarding the factor or factors that caused the increase in the wholesale
32 acquisition cost and an explanation of the role of each factor's impact on the cost.

33 (d) The quality and types of information and data that a pharmaceutical drug
34 manufacturer submits to the director under subsection (c) of this section must be consistent with

1 the quality and types of information and data that the manufacturer includes in the manufacturer's
2 annual consolidated report on Securities and Exchange Commission Form 10-K or any other
3 public disclosure.

4 (e) Not later than the sixtieth day after receipt of the report submitted under subsection
5 (c) of this section, the director shall publish the report on the department of health's Internet
6 website described by subsection (b) of this section.

7 (f) The director shall promulgate any and all rules and regulations deemed necessary for
8 the implementation of this chapter.

9 SECTION 2. Chapter 27-18 of the General Laws entitled "Accident and Sickness
10 Insurance Policies" is hereby amended by adding thereto the following section:

11 **27-18-85. Drug cost transparency.**

12 (a) The following definitions as used in this section shall apply:

13 (1) "Animal health product" means a medical product approved and licensed for use in
14 animal or veterinary medicine, including a pharmaceutical, a biologic, an insecticide, and a
15 parasiticide.

16 (2) "Commissioner" or "health insurance commissioner" means that individual appointed
17 pursuant to § 42-14.5-1.

18 (3) "Health benefit plan" has the same meaning as § 27-18-1.1.

19 (4) "Health benefit plan issuer" means a health insurance company, health insurance
20 carrier, a health maintenance organization, or a hospital and medical service corporation.

21 (5) "Pharmaceutical drug manufacturer" means a person engaged in the business of
22 producing, preparing, propagating, compounding, converting, processing, packaging,
23 repackaging, labeling, or distributing a drug. The term "pharmaceutical drug manufacturer" does
24 not include a wholesale distributor or retailer of prescription drugs or a pharmacist licensed under
25 chapter 19.1 of title 5.

26 (6) "Pharmacy benefit manager" means an entity doing business in this state that
27 contracts to administer or manage prescription-drug benefits on behalf of any carrier that provides
28 prescription-drug benefits to residents of this state.

29 (7) "Prescription drug" and "drug" means a drug as defined in 21 U.S.C. § 321, except
30 that the term "prescription drug" or "drug" does not include a device or an animal health product.

31 (8) "Rebate" means a discount or concession that affects the price of a prescription drug
32 to a pharmacy benefit manager or health benefit plan issuer for a prescription drug manufactured
33 by the pharmaceutical drug manufacturer.

34 (9) "Specialty drug" means a prescription drug covered under Medicare Part D that

1 exceeds the specialty tier cost threshold established by the Centers for Medicare and Medicaid
2 Services.

3 (10) "Utilization management" means a set of formal techniques designed to monitor the
4 use of, or evaluate the medical necessity, appropriateness, efficacy, or efficiency of, health care
5 services, procedures, or settings.

6 (b) On or before February 1, 2021 and every February 1 of each year thereafter, each
7 pharmacy benefit manager shall file a report with the commissioner. The report must state for the
8 immediately preceding calendar year:

9 (1) The aggregated rebates, fees, price protection payments, and any other payments
10 collected from pharmaceutical drug manufacturers; and

11 (2) The aggregated dollar amount of rebates, fees, price protection payments, and any
12 other payments collected from pharmaceutical drug manufacturers that were:

13 (i) Passed to:

14 (A) A health benefit plan issuer; or

15 (B) Enrollees at the point of sale of a prescription drug; or

16 (ii) Retained as revenue by the pharmacy benefit manager.

17 (c) Notwithstanding subsection (b) of this section, the report due after February 1, 2021,
18 under that subsection must state the required information for the immediately preceding three (3)
19 calendar years in addition to stating the required information for the preceding calendar year. This
20 subsection (c) of this section shall not apply to any report required after February 1, 2021.

21 (d) A report submitted by a pharmacy benefit manager may not disclose the identity of a
22 specific health benefit plan or enrollee, the price charged for a specific prescription drug or class
23 of prescription drugs, or the amount of any rebate or fee provided for a specific prescription drug
24 or class of prescription drugs.

25 (e) On or before February 1, 2021 and every February 1 of each year thereafter, each
26 health benefit plan issuer shall submit to the commissioner a report that states for the immediately
27 preceding calendar year:

28 (1) The names of the twenty-five (25) most frequently prescribed prescription drugs
29 across all plans;

30 (2) The percent increase in annual net spending for prescription drugs across all plans;

31 (3) The percent increase in premiums that were attributable to prescription drugs across
32 all plans;

33 (4) The percentage of specialty drugs with utilization management requirements across
34 all plans; and

1 (5) The premium reductions that were attributable to specialty drug utilization
2 management.

3 (f) A report submitted by a health benefit plan issuer may not disclose the identity of a
4 specific health benefit plan or the price charged for a specific prescription drug or class of
5 prescription drugs.

6 (g) On or before May 1 of each year, the commissioner shall collaborate with the Rhode
7 Island department of health to publish the aggregated data from all reports for that year required
8 by this section in an appropriate location on an Internet website created pursuant to § 21-38-3(b).
9 The combined aggregated data from the reports must be published in a manner that does not
10 disclose or tend to disclose proprietary or confidential information of any pharmacy benefit
11 manager or health benefit plan issuer.

12 (h) The commissioner shall promulgate any and all rules and regulations deemed
13 necessary for the implementation of this section.

14 SECTION 3. Chapter 27-19 of the General Laws entitled "Nonprofit Hospital Service
15 Corporations" is hereby amended by adding thereto the following section:

16 **27-19-77. Drug cost transparency.**

17 (a) The following definitions as used in this section shall apply:

18 (1) "Animal health product" means a medical product approved and licensed for use in
19 animal or veterinary medicine, including a pharmaceutical, a biologic, an insecticide, and a
20 parasiticide.

21 (2) "Commissioner" or "health insurance commissioner" means that individual appointed
22 pursuant to § 42-14.5-1.

23 (3) "Health benefit plan" has the same meaning as § 27-18-1.1.

24 (4) "Health benefit plan issuer" means a health insurance company, health insurance
25 carrier, a health maintenance organization, or a hospital and medical service corporation.

26 (5) "Pharmaceutical drug manufacturer" means a person engaged in the business of
27 producing, preparing, propagating, compounding, converting, processing, packaging,
28 repackaging, labeling, or distributing a drug. The term "pharmaceutical drug manufacturer" does
29 not include a wholesale distributor or retailer of prescription drugs or a pharmacist licensed under
30 chapter 19.1 of title 5.

31 (6) "Pharmacy benefit manager" means an entity doing business in this state that
32 contracts to administer or manage prescription-drug benefits on behalf of any carrier that provides
33 prescription-drug benefits to residents of this state.

34 (7) "Prescription drug" and "drug" means a drug as defined in 21 U.S.C. § 321, except

1 that the term "prescription drug" or "drug" does not include a device or an animal health product.

2 (8) "Rebate" means a discount or concession that affects the price of a prescription drug
3 to a pharmacy benefit manager or health benefit plan issuer for a prescription drug manufactured
4 by the pharmaceutical drug manufacturer.

5 (9) "Specialty drug" means a prescription drug covered under Medicare Part D that
6 exceeds the specialty tier cost threshold established by the Centers for Medicare and Medicaid
7 Services.

8 (10) "Utilization management" means a set of formal techniques designed to monitor the
9 use of, or evaluate the medical necessity, appropriateness, efficacy, or efficiency of, health care
10 services, procedures, or settings.

11 (b) On or before February 1, 2021 and every February 1 of each year thereafter, each
12 pharmacy benefit manager shall file a report with the commissioner. The report must state for the
13 immediately preceding calendar year:

14 (1) The aggregated rebates, fees, price protection payments, and any other payments
15 collected from pharmaceutical drug manufacturers; and

16 (2) The aggregated dollar amount of rebates, fees, price protection payments, and any
17 other payments collected from pharmaceutical drug manufacturers that were:

18 (i) Passed to:

19 (A) A health benefit plan issuer; or

20 (B) Enrollees at the point of sale of a prescription drug; or

21 (ii) Retained as revenue by the pharmacy benefit manager.

22 (c) Notwithstanding subsection (b) of this section, the report due on or before February 1,
23 2021, under that subsection must state the required information for the immediately preceding
24 three (3) calendar years in addition to stating the required information for the preceding calendar
25 year. This subsection (c) of this section shall not apply to any report required after February 1,
26 2021.

27 (d) A report submitted by a pharmacy benefit manager may not disclose the identity of a
28 specific health benefit plan or enrollee, the price charged for a specific prescription drug or class
29 of prescription drugs, or the amount of any rebate or fee provided for a specific prescription drug
30 or class of prescription drugs.

31 (e) On or before February 1, 2021 and every February 1 of each year thereafter, each
32 health benefit plan issuer shall submit to the commissioner a report that states for the immediately
33 preceding calendar year:

34 (1) The names of the twenty-five (25) most frequently prescribed prescription drugs

1 across all plans:

2 (2) The percent increase in annual net spending for prescription drugs across all plans;

3 (3) The percent increase in premiums that were attributable to prescription drugs across
4 all plans;

5 (4) The percentage of specialty drugs with utilization management requirements across
6 all plans; and

7 (5) The premium reductions that were attributable to specialty drug utilization
8 management.

9 (f) A report submitted by a health benefit plan issuer may not disclose the identity of a
10 specific health benefit plan or the price charged for a specific prescription drug or class of
11 prescription drugs.

12 (g) On or before May 1 of each year, the commissioner shall collaborate with the Rhode
13 Island department of health to publish the aggregated data from all reports for that year required
14 by this section in an appropriate location on an Internet website created pursuant to § 21-38-3(b).
15 The combined aggregated data from the reports must be published in a manner that does not
16 disclose or tend to disclose proprietary or confidential information of any pharmacy benefit
17 manager or health benefit plan issuer.

18 (h) The commissioner shall promulgate any and all rules and regulations deemed
19 necessary for the implementation of this section.

20 SECTION 4. Chapter 27-20 of the General Laws entitled "Nonprofit Medical Service
21 Corporations" is hereby amended by adding thereto the following section:

22 **27-20-72. Drug cost transparency.**

23 (a) The following definitions as used in this section shall apply:

24 (1) "Animal health product" means a medical product approved and licensed for use in
25 animal or veterinary medicine, including a pharmaceutical, a biologic, an insecticide, and a
26 parasiticide.

27 (2) "Commissioner" or "health insurance commissioner" means that individual appointed
28 pursuant to § 42-14.5-1.

29 (3) "Health benefit plan" has the same meaning as § 27-18-1.1.

30 (4) "Health benefit plan issuer" means a health insurance company, health insurance
31 carrier, a health maintenance organization, or a hospital and medical service corporation.

32 (5) "Pharmaceutical drug manufacturer" means a person engaged in the business of
33 producing, preparing, propagating, compounding, converting, processing, packaging,
34 repackaging, labeling, or distributing a drug. The term "pharmaceutical drug manufacturer" does

1 not include a wholesale distributor or retailer of prescription drugs or a pharmacist licensed under
2 chapter 19.1 of title 5.

3 (6) "Pharmacy benefit manager" means an entity doing business in this state that
4 contracts to administer or manage prescription-drug benefits on behalf of any carrier that provides
5 prescription-drug benefits to residents of this state.

6 (7) "Prescription drug" and "drug" means a drug as defined in 21 U.S.C. § 321, except
7 that the term "prescription drug" or "drug" does not include a device or an animal health product.

8 (8) "Rebate" means a discount or concession that affects the price of a prescription drug
9 to a pharmacy benefit manager or health benefit plan issuer for a prescription drug manufactured
10 by the pharmaceutical drug manufacturer.

11 (9) "Specialty drug" means a prescription drug covered under Medicare Part D that
12 exceeds the specialty tier cost threshold established by the Centers for Medicare and Medicaid
13 Services.

14 (10) "Utilization management" means a set of formal techniques designed to monitor the
15 use of, or evaluate the medical necessity, appropriateness, efficacy, or efficiency of, health care
16 services, procedures, or settings.

17 (b) On or before February 1, 2021 and every February 1 of each year thereafter, each
18 pharmacy benefit manager shall file a report with the commissioner. The report must state for the
19 immediately preceding calendar year:

20 (1) The aggregated rebates, fees, price protection payments, and any other payments
21 collected from pharmaceutical drug manufacturers; and

22 (2) The aggregated dollar amount of rebates, fees, price protection payments, and any
23 other payments collected from pharmaceutical drug manufacturers that were:

24 (i) Passed to:

25 (A) A health benefit plan issuer; or

26 (B) Enrollees at the point of sale of a prescription drug; or

27 (ii) Retained as revenue by the pharmacy benefit manager.

28 (c) Notwithstanding subsection (b) of this section, the report due on or before February 1,
29 2021, under that subsection must state the required information for the immediately preceding
30 three (3) calendar years in addition to stating the required information for the preceding calendar
31 year. This subsection (c) of this section shall not apply to any report required after February 1,
32 2021.

33 (d) A report submitted by a pharmacy benefit manager may not disclose the identity of a
34 specific health benefit plan or enrollee, the price charged for a specific prescription drug or class

1 of prescription drugs, or the amount of any rebate or fee provided for a specific prescription drug
2 or class of prescription drugs.

3 (e) On or before February 1, 2021 and every February 1 of each year thereafter, each
4 health benefit plan issuer shall submit to the commissioner a report that states for the immediately
5 preceding calendar year:

6 (1) The names of the twenty-five (25) most frequently prescribed prescription drugs
7 across all plans;

8 (2) The percent increase in annual net spending for prescription drugs across all plans;

9 (3) The percent increase in premiums that were attributable to prescription drugs across
10 all plans;

11 (4) The percentage of specialty drugs with utilization management requirements across
12 all plans; and

13 (5) The premium reductions that were attributable to specialty drug utilization
14 management.

15 (f) A report submitted by a health benefit plan issuer may not disclose the identity of a
16 specific health benefit plan or the price charged for a specific prescription drug or class of
17 prescription drugs.

18 (g) On or before May 1 of each year, the commissioner shall collaborate with the Rhode
19 Island department of health to publish the aggregated data from all reports for that year required
20 by this section in an appropriate location on an Internet website created pursuant to § 21-38-3(b).
21 The combined aggregated data from the reports must be published in a manner that does not
22 disclose or tend to disclose proprietary or confidential information of any pharmacy benefit
23 manager or health benefit plan issuer.

24 (h) The commissioner shall promulgate any and all rules and regulations deemed
25 necessary for the implementation of this section.

26 SECTION 5. Chapter 27-41 of the General Laws entitled "Health Maintenance
27 Organizations" is hereby amended by adding thereto the following section:

28 **27-41-90. Drug cost transparency.**

29 (a) The following definitions as used in this section shall apply:

30 (1) "Animal health product" means a medical product approved and licensed for use in
31 animal or veterinary medicine, including a pharmaceutical, a biologic, an insecticide, and a
32 parasiticide.

33 (2) "Commissioner" or "health insurance commissioner" means that individual appointed
34 pursuant to § 42-14.5-1.

1 (3) "Health benefit plan" has the same meaning as § 27-18-1.1.

2 (4) "Health benefit plan issuer" means a health insurance company, health insurance

3 carrier, a health maintenance organization, or a hospital and medical service corporation.

4 (5) "Pharmaceutical drug manufacturer" means a person engaged in the business of

5 producing, preparing, propagating, compounding, converting, processing, packaging,

6 repackaging, labeling, or distributing a drug. The term "pharmaceutical drug manufacturer" does

7 not include a wholesale distributor or retailer of prescription drugs or a pharmacist licensed under

8 chapter 19.1 of title 5.

9 (6) "Pharmacy benefit manager" means an entity doing business in this state that

10 contracts to administer or manage prescription-drug benefits on behalf of any carrier that provides

11 prescription-drug benefits to residents of this state.

12 (7) "Prescription drug" and "drug" means a drug as defined in 21 U.S.C. § 321, except

13 that the term "prescription drug" or "drug" does not include a device or an animal health product.

14 (8) "Rebate" means a discount or concession that affects the price of a prescription drug

15 to a pharmacy benefit manager or health benefit plan issuer for a prescription drug manufactured

16 by the pharmaceutical drug manufacturer.

17 (9) "Specialty drug" means a prescription drug covered under Medicare Part D that

18 exceeds the specialty tier cost threshold established by the Centers for Medicare and Medicaid

19 Services.

20 (10) "Utilization management" means a set of formal techniques designed to monitor the

21 use of, or evaluate the medical necessity, appropriateness, efficacy, or efficiency of, health care

22 services, procedures, or settings.

23 (b) On or before February 1, 2021 and every February 1 of each year thereafter, each

24 pharmacy benefit manager shall file a report with the commissioner. The report must state for the

25 immediately preceding calendar year:

26 (1) The aggregated rebates, fees, price protection payments, and any other payments

27 collected from pharmaceutical drug manufacturers; and

28 (2) The aggregated dollar amount of rebates, fees, price protection payments, and any

29 other payments collected from pharmaceutical drug manufacturers that were:

30 (i) Passed to:

31 (A) A health benefit plan issuer; or

32 (B) Enrollees at the point of sale of a prescription drug; or

33 (ii) Retained as revenue by the pharmacy benefit manager.

34 (c) Notwithstanding subsection (b) of this section, the report due on or before February 1,

1 2021, under that subsection must state the required information for the immediately preceding
2 three (3) calendar years in addition to stating the required information for the preceding calendar
3 year. This subsection (c) of this section shall not apply to any report required after February 1,
4 2021.

5 (d) A report submitted by a pharmacy benefit manager may not disclose the identity of a
6 specific health benefit plan or enrollee, the price charged for a specific prescription drug or class
7 of prescription drugs, or the amount of any rebate or fee provided for a specific prescription drug
8 or class of prescription drugs.

9 (e) On or before February 1, 2021 and every February 1 of each year thereafter, each
10 health benefit plan issuer shall submit to the commissioner a report that states for the immediately
11 preceding calendar year:

12 (1) The names of the twenty-five (25) most frequently prescribed prescription drugs
13 across all plans;

14 (2) The percent increase in annual net spending for prescription drugs across all plans;

15 (3) The percent increase in premiums that were attributable to prescription drugs across
16 all plans;

17 (4) The percentage of specialty drugs with utilization management requirements across
18 all plans; and

19 (5) The premium reductions that were attributable to specialty drug utilization
20 management.

21 (f) A report submitted by a health benefit plan issuer may not disclose the identity of a
22 specific health benefit plan or the price charged for a specific prescription drug or class of
23 prescription drugs.

24 (g) On or before May 1 of each year, the commissioner shall collaborate with the Rhode
25 Island department of health to publish the aggregated data from all reports for that year required
26 by this section in an appropriate location on an Internet website created pursuant to § 21-38-3(b).
27 The combined aggregated data from the reports must be published in a manner that does not
28 disclose or tend to disclose proprietary or confidential information of any pharmacy benefit
29 manager or health benefit plan issuer.

30 (h) The commissioner shall promulgate any and all rules and regulations deemed
31 necessary for the implementation of this section.

1 SECTION 6. This act shall take effect upon passage.

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LC003958

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FOOD AND DRUGS - DRUG COST TRANSPARENCY ACT

- 1 This act would require pharmaceutical drug manufacturers to provide wholesale drug
- 2 acquisition cost information to the department of health (DOH) and pharmacy benefit managers
- 3 to provide information relating to drug prices, rebates, fees and drug sales to the health insurance
- 4 commissioner on a yearly basis on or before February 1, 2021 and thereafter.
- 5 This act would take effect upon passage.

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