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S.P. 274

In Senate, March 4, 2021

An Act To Increase Prescription Drug Pricing Transparency

Received by the Secretary of the Senate on March 2, 2021. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator VITELLI of Sagadahoc.
Cosponsored by Senators: BRENNER of Cumberland, CLAXTON of Androscoggin, CURRY of Waldo, President JACKSON of Aroostook, LUCHINI of Hancock, MAXMIN of Lincoln, RAFFERTY of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §8731, sub-§1-A** is enacted to read:

3 **1-A. Drug product family.** "Drug product family" means a group of one or more
4 prescription drugs that share a unique generic drug description and drug form.

5 **Sec. 2. 22 MRSA §8731, sub-§3**, as enacted by PL 2019, c. 470, §8, is amended to
6 read:

7 **3. Manufacturer.** "Manufacturer" means ~~a manufacturer of~~ an entity that
8 manufactures or repackages, and sets the wholesale acquisition cost for, prescription drugs
9 that are distributed in the State.

10 **Sec. 3. 22 MRSA §8731, sub-§3-A** is enacted to read:

11 **3-A. Prescription drug.** "Prescription drug" means a drug, as defined in 21 United
12 States Code, Section 321(g) or a biological product as defined in 42 United States Code,
13 Section 262(i)(1) that:

14 A. Is intended for human use;

15 B. Is not a device within the meaning of 21 United States Code, Section 321(h); and

16 C. By federal or state law, can be lawfully dispensed only on prescription by a licensed
17 health care professional.

18 **Sec. 4. 22 MRSA §8732, sub-§1**, as enacted by PL 2019, c. 470, §8, is amended
19 by enacting at the end a new blocked paragraph to read:

20 This subsection is repealed January 30, 2022.

21 **Sec. 5. 22 MRSA §8732, sub-§1-A** is enacted to read:

22 **1-A. Public notice of substantial drug price change or introduction.** No later than
23 January 30, 2022 and annually thereafter, the organization shall produce and post on its
24 publicly accessible website a list of prescription drugs for which the manufacturer has
25 during the prior calendar year:

26 A. Increased the wholesale acquisition cost of a brand-name drug by more than 20%
27 per pricing unit;

28 B. Increased the wholesale acquisition cost of a generic drug that costs at least \$10 per
29 pricing unit by more than 20% per pricing unit; or

30 C. Introduced a new drug for distribution in this State when the wholesale acquisition
31 cost is greater than the amount that would cause the drug to be considered a specialty
32 drug under the Medicare Part D program. For the purposes of this paragraph, "Medicare
33 Part D" has the same meaning as in section 254-D, subsection 1, paragraph F.

34 **Sec. 6. 22 MRSA §8732, sub-§2**, as enacted by PL 2019, c. 470, §8, is repealed
35 and the following enacted in its place:

36 **2. Disclosures by manufacturers, wholesale drug distributors and pharmacy**
37 **benefits managers.** The following disclosures apply to manufacturers, wholesale drug
38 distributors and pharmacy benefits managers.

1 A. On or before February 15th of each year, the organization shall produce and post
2 on its publicly accessible website a list of drug product families for which it intends to
3 request pricing component data from manufacturers, wholesale drug distributors and
4 pharmacy benefits managers. The organization shall base its inclusion of drug product
5 families on any information the organization determines is relevant to providing greater
6 consumer awareness of the factors contributing to the cost of prescription drugs in the
7 State, and the organization shall consider drug product families that include
8 prescription drugs:

9 (1) Included in the public notice of substantial drug price change or introduction
10 under subsection 1-A; and

11 (2) For which the organization is required to produce an annual report pursuant to
12 section 8712, subsection 5, including, but not limited to, the 25 costliest drugs, the
13 25 most frequently prescribed drugs in the State and the 25 drugs with the highest
14 year-over-year cost increases.

15 B. Not sooner than 30 days after publicly posting the list of drug product families
16 pursuant to paragraph A, the organization shall notify, via e-mail, manufacturers,
17 wholesale drug distributors and pharmacy benefits managers pursuant to paragraph C.

18 C. Within 60 days from the date of a request from the organization relating to a specific
19 prescription drug, a manufacturer, wholesale drug distributor or pharmacy benefits
20 manager shall notify the organization of pricing component data per pricing unit of the
21 prescription drug.

22 **Sec. 7. 22 MRSA §8733**, as enacted by PL 2019, c. 470, §8, is amended to read:

23 **§8733. Confidentiality**

24 Information provided to the organization as required by this subchapter by a
25 manufacturer, wholesale drug distributor or pharmacy benefits manager is confidential and
26 not a public record under Title 1, chapter 13, except that the organization may share
27 information:

28 **1. Bureau of Insurance.** With the Department of Professional and Financial
29 Regulation, Bureau of Insurance, to the extent necessary for the bureau to enforce the
30 provisions of Title 24-A, as long as any information shared is kept confidential; ~~and~~

31 **2. Aggregate.** In the aggregate, as long as it is not released in a manner that allows
32 the ~~identification of an individual drug or~~ determination of individual prescription drug
33 pricing contract terms covering a manufacturer, wholesale drug distributor or pharmacy
34 benefits manager; ~~and~~

35 **3. Publicly available.** That is available, for purchase or otherwise, to the public.

36 **Sec. 8. 22 MRSA §8734**, as enacted by PL 2019, c. 470, §8, is amended to read:

37 **§8734. Registration requirements**

38 Beginning January 1, 2020, ~~a manufacturer and~~ manufacturers, wholesale drug
39 ~~distributor~~ distributors and pharmacy benefits managers subject to this subchapter shall
40 register annually with the organization in a manner prescribed by the organization.

41 **Sec. 9. 22 MRSA §8736**, as enacted by PL 2019, c. 470, §8, is amended to read:

