



# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 686

S.P. 274

In Senate, March 4, 2021

### An Act To Increase Prescription Drug Pricing Transparency

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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20 This subsection is repealed January 30, 2022.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:

1               **§8736. Public report**

2               Beginning November 1, 2020 and annually thereafter, the organization shall produce  
3               and post on its publicly accessible website an annual report, including information  
4               developed from the ~~notifications and~~ disclosures received pursuant to this subchapter on  
5               trends in the cost of prescription drugs, analysis of manufacturer prices and price increases,  
6               the major components of prescription drug pricing along the supply chain and the impacts  
7               on insurance premiums and cost sharing and any other information the organization  
8               determines is relevant to providing greater consumer awareness of the factors contributing  
9               to the cost of prescription drugs in the State. The report may not ~~disclose information~~  
10              ~~attributable to any particular manufacturer, wholesale drug distributor or pharmacy benefits~~  
11              ~~manager subject to this subchapter and may not~~ make public any information that is  
12              confidential pursuant to section 8733. The organization shall submit the report required by  
13              this section to the joint standing committee of the Legislature having jurisdiction over  
14              health data reporting and prescription drug matters and the committee may report out  
15              legislation to the first regular or second regular session of the Legislature, depending on  
16              the year in which the report is submitted.

17   **SUMMARY**

18              This bill amends the law governing prescription drug pricing for purchasers. It changes  
19              a requirement that a manufacturer notify the Maine Health Data Organization when the  
20              manufacturer has taken certain actions regarding high prescription drug pricing to a  
21              requirement that the organization produce and post on its publicly accessible website a list  
22              of prescription drugs for which manufacturers have taken those actions. It requires the  
23              organization to produce and post on its publicly accessible website a list of drug product  
24              families for which it intends to request pricing component data from manufacturers,  
25              wholesale drug distributors and pharmacy benefits managers and to notify the  
26              manufacturers, wholesale drug distributors and pharmacy benefits managers before  
27              requesting pricing component data. It also amends related public reporting and  
28              confidentiality requirements.