

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 411

Short Title: Prescription Drug Pricing. (Public)

Sponsors: Senators Crawford, Mohammed, and Lowe (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 31, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO PROMOTE PRESCRIPTION DRUG PRICE TRANSPARENCY.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article
5 to read:

6 "Article 47A.

7 "Prescription Drug Transparency.

8 "**§ 66-460. Title.**

9 This Article shall be entitled "The Prescription Drug Transparency Act."

10 "**§ 66-461. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Interested parties. – State agencies that purchase prescription drugs or have
13 employees who are prescribers, health insurance companies, health care
14 service plan providers, and pharmacy benefit managers.
- 15 (2) Manufacturer. – An entity engaged in producing, preparing, propagating,
16 compounding, processing, packaging, repackaging, or labeling a brand-name
17 or generic drug but does not include an entity that is engaged in the preparation
18 and dispensing of a brand-name or generic drug pursuant to a prescription.
- 19 (3) Prescriber. – Any person authorized by State law to issue a prescription order.
- 20 (4) Prescription drug. – As defined in G.S. 90-85.3(s).
- 21 (5) Prescription order. – As defined in G.S. 90-85.3(t).
- 22 (6) Secretary. – The Secretary of the North Carolina Department of Health and
23 Human Services.
- 24 (7) Substantial price increase. – Any increase in the price charged by a
25 manufacturer for a prescription drug that would have the impact of increasing
26 the cost of the drug by ten percent (10%) or more over 12 months.

27 "**§ 66-462. Required notifications and disclosures.**

28 (a) Price Increases. – A manufacturer shall notify all interested parties of an upcoming
29 substantial price increase at least 60 days prior to the increase. Within 30 days after the
30 notification required under this subsection, the manufacturer shall disclose the following to all
31 interested parties:

- 32 (1) A justification for the proposed price increase. The manufacturer may limit
33 the information in the justification to that which is publicly available.
- 34 (2) The previous year's marketing budget for the drug.
- 35 (3) The date and price of acquisition if the drug was not developed by the
36 manufacturer.



1 (4) A schedule of price increases for the drug for the previous five years.

2 (b) New Products. – A manufacturer shall notify all interested parties of the price of any
3 new prescription drug within three days after the manufacturer receives approval by the U.S.
4 Food and Drug Administration. Within 30 days after the notification required under this
5 subsection, the manufacturer shall disclose the following to all interested parties:

6 (1) A justification for the price. The manufacturer may limit the contents of the
7 justification to publicly available information.

8 (2) The expected marketing budget for the drug.

9 (3) The date and price of acquisition if the drug was not developed by the
10 manufacturer.

11 (c) Risk of Dependency. – If a manufacturer or an agent of the manufacturer meets or
12 otherwise communicates with a prescriber for the purpose of marketing a prescription drug, the
13 manufacturer or the manufacturer's agent shall disclose to the prescriber if any ingredient in the
14 prescription drug it is marketing is known to pose a risk of dependency in humans.

15 **"§ 66-463. Penalty for failure to report.**

16 The Secretary shall assess a civil penalty against any manufacturer that fails to report the
17 information required under G.S. 66-462(a) and (b). The amount of the penalty shall not exceed
18 one thousand dollars (\$1,000) for each day the manufacturer fails to submit the required
19 information. The clear proceeds of any civil penalties assessed pursuant to this subsection shall
20 be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.
21 Chapter 150B of the General Statutes applies to proceedings for the assessment of civil penalties
22 under this section.

23 **"§ 66-464. No price limitations.**

24 Nothing in this Article shall be construed as a limitation upon the ability of a manufacturer
25 to charge any price for a prescription drug permitted by law.

26 **"§ 66-465. Report and data collection by the Secretary; public portal.**

27 (a) Plan for Implementation. – The Secretary shall develop a plan to collect data from
28 manufacturers related to the cost and pricing of prescription drugs in order to provide
29 transparency in and accountability for prescription drug pricing. The Secretary shall consult with
30 other state and national agencies and organizations to determine how to institute such data
31 collection. The Secretary shall submit a plan regarding how to implement these requirements as
32 well as any findings and recommendations to the Joint Legislative Oversight Committee on
33 Health and Human Services by February 1, 2022.

34 (b) Public Portal. – The Secretary shall also implement an online portal to provide the
35 public with electronic access to the notifications, reports, and other disclosures required by this
36 Article.

37 (c) Annual Report. – Beginning December 1, 2022, and annually thereafter, the Secretary
38 shall report to the Joint Legislative Oversight Committee on Health and Human Services the
39 following information about prescription drugs:

40 (1) The 25 most frequently prescribed drugs in the State.

41 (2) The 25 costliest drugs as determined by the total amount spent on those drugs
42 in the State.

43 (3) The 25 prescription drugs with the highest year-over-year cost increases as
44 determined by the total amount spent on those drugs in the State."

45 **SECTION 2.** This act becomes effective October 1, 2021.