

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 233

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Danice Picraux

AN ACT

RELATING TO HEALTH CARE; AMENDING SECTION 27-2E-1 NMSA 1978
(BEING LAWS 2003, CHAPTER 381, SECTION 1) TO REQUIRE THE HUMAN
SERVICES DEPARTMENT TO ANNUALLY REPORT IN THE AGGREGATE TO THE
INTERIM LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE
PHARMACEUTICAL MANUFACTURER PRICING INFORMATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 27-2E-1 NMSA 1978 (being Laws 2003,
Chapter 381, Section 1) is amended to read:

"27-2E-1. AVERAGE MANUFACTURER PRICE--FILING--
REPORTING.--

A. A person who manufactures a prescription drug,
including a generic prescription drug, that is sold in New
Mexico shall file with the human services department:

(1) the average manufacturer price for the

.175036.2

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 drug;

2 (2) the price that each wholesaler or pharmacy
3 benefit manager doing business in this state pays the
4 manufacturer to purchase the drug; and

5 (3) the price paid to the manufacturer by any
6 entity in an arrangement or contract that sells or provides
7 prescription drugs in New Mexico without the services of a
8 wholesaler.

9 B. The information required under Subsection A of
10 this section shall be filed annually or more frequently, as
11 determined by the human services department. The information
12 required under Subsection A of this section is confidential and
13 shall not be disclosed pursuant to Section [~~3 of this act~~]
14 27-2E-2 NMSA 1978 and shall not be subject to public inspection
15 pursuant to the provisions of Section 14-2-1 NMSA 1978.

16 C. A person who engages in the wholesale
17 distribution of prescription drugs in New Mexico shall file
18 with the human services department information showing the
19 actual price at which the wholesaler or distributor sells a
20 particular drug to a pharmacy.

21 D. The human services department shall report to
22 the interim legislative health and human services committee on
23 the information it receives pursuant to this section by
24 November 1 of each year.

25 [~~D.~~] E. As used in this section, "average

.175036.2

underscored material = new
[bracketed material] = delete

1 manufacturer price" means the average price paid to the
2 manufacturer for the drug in New Mexico, including rebates,
3 discounts and market incentives, after deducting customary
4 prompt-pay discounts."

5 Section 2. Section 27-2E-2 NMSA 1978 (being Laws 2003,
6 Chapter 381, Section 2) is amended to read:

7 "27-2E-2. UNLAWFUL DISCLOSURE--PENALTIES.--

8 A. It is unlawful for an employee, former employee,
9 contractor or former contractor of the human services
10 department to reveal to another person [~~except to another~~
11 ~~employee or contractor of the department as required by the~~
12 ~~employee's or contractor's duties or responsibilities or by~~
13 ~~state or federal court order~~] information acquired pursuant to
14 Section [~~1 of this act~~] 27-2E-1 NMSA 1978 or any other
15 information about a prescription drug manufacturer acquired as
16 a result of [~~his~~] employment or contract by the department and
17 not available from public sources, except:

18 (1) to an employee or contractor of the
19 department as required by the employee's or contractor's duties
20 or responsibilities;

21 (2) to the interim legislative health and
22 human services committee, pursuant to the reporting
23 requirements of Subsection D of Section 27-2E-1 NMSA 1978; or

24 (3) by state or federal court order.

25 B. An employee, former employee, contractor or

.175036.2

underscoring material = new
[bracketed material] = delete

1 former contractor of the human services department who reveals
2 to another person information that [~~he~~] the person is
3 prohibited from lawfully revealing is guilty of a misdemeanor
4 and shall, upon conviction thereof, be fined not more than one
5 thousand dollars (\$1,000) or imprisoned not more than one year,
6 or both, [~~together with~~] and assessed costs of prosecution, and
7 shall not be employed by the state for a period of five years
8 after the date of the conviction."

9 - 4 -

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25