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SENATE, No. 977

STATE OF NEW JERSEY

218th LEGISLATURE

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Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Prohibits excessive charges for drugs developed by publicly funded research.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on September 24, 2018, with amendments.

AN ACT requiring reasonable pricing of drugs developed by publicly funded research and supplementing Title 24 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. If a drug, biologic, or other health care technology approved by the federal Food and Drug Administration was developed, partially or entirely, through research and development that is directly or indirectly supported by the federal or State government, it shall be unlawful for any person to sell, offer to sell, or advertise for sale the drug, biologic, or technology to any purchaser in this State at a unit price that is greater than the benchmark unit price established pursuant to subsection b. of this section, or that constitutes discriminatory pricing as set forth in subsection c. of this section.

b. The benchmark unit price for a drug, biologic, or other health care technology is the lowest price charged to countries in the Organization for Economic Co-Operation and Development for the same drug, biologic, or technology, that have the largest gross domestic product with a per capita income that is not less than half of the per capita income of the United States.

c. For the purposes of this section, a cost-based reasonable pricing formula that is utilized shall be considered to result in discriminatory pricing if the contract for sale of the drug, biologic, or other health care technology places a limit on supply, or employs any other measure that has the effect of providing access to such drug, biologic, or technology on terms or conditions that are less favorable than the terms or conditions provided to a foreign purchaser, other than a charitable or humanitarian organization, of the drug, biologic, or technology.

d. [1]The Commissioner of Health shall, pursuant to the Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), develop rules and procedures to access the information necessary to determine whether a drug, biologic, or other health care technology was developed, partially or entirely, through research and development that was directly or indirectly supported by the federal or State government, and to effectuate the pricing review necessary to enforce the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).[1] If the Commissioner of Health finds that it is in the public interest to waive the price requirements of this section for a specific drug, biologic, or other health care technology, the commissioner may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), issue a waiver of the price requirements under this section for the specific drug, biologic, or technology.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SHH committee amendments adopted September 24, 2018.

[1]e. Nothing in this section shall be construed to impose liability on news media that accept or publish advertising for a drug, biologic, or other health care technology for which the price does not comply with the provisions of this act.[1]

2. This act shall take effect on the first day of the 13th month next following the date of enactment.