

1 **42-49-3. Purpose.** – The purpose of this act is to protect the public health and safety and
2 promote the public interest by establishing prices for prescription drugs that more adequately
3 reflect the actual cost of those drugs.

4 **42-49-4. Fair drug pricing board established.** – There is hereby established the “fair
5 drug pricing board” hereafter referred to as the “board.” The board shall consist of eleven (11)
6 members: six (6) of whom shall be appointed by the speaker of the house of representatives; three
7 (3) of whom shall be appointed by the president of the senate; and two (2) of whom shall be
8 appointed by the governor.

9 Members of the board shall serve for terms of three (3) years and may be re-appointed.

10 **42-49-5. Prescription drug pricing.** – The board shall adopt rules establishing the
11 maximum price for prescription drugs pursuant to this chapter. Maximum prices established by
12 the board are provisionally adopted pending approval by the legislature. The board shall use the
13 following guidelines when determining prices:

14 (a) The maximum price for a prescription drug sold in the state by a manufacturer must
15 be the lower of the price listed in the federal supply schedule for pharmaceuticals and drugs
16 maintained by the United States Department of Veterans’ Affairs or the price listed in the drug
17 formulary maintained by the Province of Quebec;

18 (b) The maximum price for a prescription drug sold in the state by a wholesaler is the
19 maximum manufacturers price as determined by subsection (1) plus any usual and customary
20 wholesale markup;

21 (c) The maximum price for a prescription drug sold in the state by a retailer is the
22 maximum wholesale price as determined by subsection (2) plus any usual and customary
23 wholesale markup.

24 **42-49-6. Prescription drug survey.** -- The board, to assist in the development of
25 maximum drug prices pursuant to this chapter, shall conduct a semi-annual survey of prescription
26 drug prices.

27 (1) The survey will include the following information:

28 (a) Current manufacturers whole sale and retail maximum prices of prescription drugs in
29 Rhode Island as set by the board;

30 (b) Manufacturers wholesale and retail maximum prices for prescription drugs for the
31 previous five (5) years at six (6) month intervals;

32 (c) The federal supply schedule for pharmaceuticals and drugs maintained by the United
33 States Department of Veterans’ Affairs;

34 (d) The drug formulary maintained by the Province of Quebec;

1 (e) Current data regarding the elderly low-cost drug program and the Rhode Island
2 resident's low-cost drug program;

3 (f) Any other information concerning prescription drug prices in the state that the board
4 considers appropriate;

5 (g) The board shall maintain a publicly accessible site on the internet containing the result
6 of the survey conducted pursuant to subsection (1);

7 (h) Semi-annually, the board shall provide copies of the results of the survey pursuant to
8 subsection (1) to the legislature, the Rhode Island board of pharmacy and the department of
9 professional and financial regulations.

10 **42-49-7. Appeals.** – (a) Manufacturer of prescription drugs may appeal the maximum
11 price of a prescription drug to the board.

12 The factors to be considered by the board in an appeal include the cost of production, the
13 profit through sales and the price charged in other markets for the prescription drug. In the event a
14 manufacturer is aggrieved by a decision of the board, the manufacturer may appeal to the superior
15 court.

16 If a manufacturer of prescription drugs appeals a price set by the board, the manufacturer
17 shall fully disclose to the board information regarding the production cost of the drug and any
18 other information pertinent to the appeal requested by the board. Any law protecting the
19 manufacturer from having to disclose such information shall not apply.

20 The filing of an appeal will not delay the implementation of the maximum price imposed
21 by the board.

22 **42-49-8. Violation enforcement.** – The attorney general shall investigate any violation
23 by a manufacturer or wholesaler of prescription drugs sold in this state for any of the following:

24 (a) Violation of any other state or local law that prohibits discriminatory rebates or
25 discounts or other methods of establishing prices for prescription drugs;

26 (b) Violation of any state or local law that prohibits the return of part of the cost of a drug
27 pursuant to a confidential agreement or coercion; or

28 (c) Violation of any state or local law that prohibits a drug manufacturer or wholesaler
29 from interfering with health care providers or retail pharmacies or the patients of health care
30 providers or retail pharmacies.

31 If the attorney general determines that a violation of subsection (1) or of any similar
32 federal law had occurred, in addition to any other penalties the attorney general may recommend
33 to the Rhode Island board of pharmacy that the manufacturer certificate of registration issued
34 pursuant to Rhode Island laws be revoked or suspended. The Rhode Island board of pharmacy

1 may not revoke or suspend a manufacturer certificate of registration if that action would cause the
2 supply of prescription drugs to be restricted as determined by the fair drug pricing board.

3 The attorney general also may initiate an investigation upon the written request of at least
4 fifty (50) residents of this state alleging excessive manufacturer wholesale or retail prescription
5 drug prices.

6 **42-49-9. Agreements with other entities.** -- The board may enter into agreement with
7 other states in the Northeast and Canadian Provinces for the purpose of maintaining fair and
8 uniform prescription drug prices and insure maximum access to affordable prescription drugs.

9 **42-49-10. Emergency measures.** – The board shall draft a plan that includes emergency
10 measures to be implemented in the event that the board determines that there is a severe limitation
11 or shortage of or loss of access to prescription drugs in the state that is threatening or endangering
12 the health or welfare of the public. If the board determines such an event is occurring the board
13 shall provide the governor with a plan and petition the governor to implement the emergency
14 measures.

15 **42-49-11. Rule making.** – The board shall adopt rules to carry out the purpose of this
16 chapter.

17 **42-49-12. Sale by certain methods prohibited.** – It shall be unlawful for any person to
18 sell, distribute, vend or otherwise dispose of any drug, medicine or pharmaceutical or medical
19 preparation by means of the internet or any public exhibition, entertainment, performance,
20 carnival or by vending machines.

21 **42-49-13. Appointment to fair drug pricing board – Meeting.** – All appointments to
22 the fair drug pricing board must be made no later than August 15, 2003. The members shall hold
23 an organizational meeting not later than ten (10) days after all members have been appointed and
24 shall elect from among themselves a chairperson. The chairperson of the board shall call the first
25 meeting of the board no later than September 1, 2003.

26 SECTION 2. This act shall take effect upon passage.
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO THE RHODE ISLAND PRESCRIPTION DRUG FAIR PRICING ACT

- 1 This act would adopt the Rhode Island prescription drug fair pricing act.
- 2 This act would take effect upon passage.

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