



1 and promote the public interest by establishing prices for prescription drugs that more adequately  
2 reflect the actual cost of those drugs.

3 **42-135.1-4. Fair drug pricing board established.** – There is hereby established the “fair  
4 drug pricing board” hereafter referred to as the “board.” The board shall consist of eleven (11)  
5 members: six (6) of whom shall be appointed by the speaker of the house of representatives; three  
6 (3) of whom shall be appointed by the president of the senate; and two (2) of whom shall be  
7 appointed by the governor.

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

9 **42-135.1-5. Prescription drug pricing.** – The board shall adopt rules establishing the  
10 maximum price for prescription drugs pursuant to this chapter. Maximum prices established by  
11 the board are provisionally adopted pending approval by the legislature. The board shall use the  
12 following guidelines when determining prices:

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

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

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

23 **42-135.1-6. Prescription drug survey.** -- The board, to assist in the development of  
24 maximum drug prices pursuant to this chapter, shall conduct a semi-annual survey of prescription  
25 drug prices.

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

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

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

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

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

34 (e) Current data regarding the elderly low-cost drug program and the Rhode Island

1 resident's low-cost drug program;

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

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

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

9 **42-135.1-7. Appeals.** – (a) Manufacturer of prescription drugs may appeal the maximum  
10 price of a prescription drug to the board.

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

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

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

21 **42-135.1-8. Violation enforcement.** – The attorney general shall investigate any  
22 violation by a manufacturer or wholesaler of prescription drugs sold in this state for any of the  
23 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 **42-135.1-9. 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 **42-135.1-10. Emergency measures.** – The board shall draft a plan that includes  
10 emergency measures to be implemented in the event that the board determines that there is a  
11 severe limitation or shortage of or loss of access to prescription drugs in the state that is  
12 threatening or endangering the health or welfare of the public. If the board determines such an  
13 event is occurring the board shall provide the governor with a plan and petition the governor to  
14 implement the emergency measures.

15 **42-135.1-11. Rule making.** – The board shall adopt rules to carry out the purpose of this  
16 chapter.

17 **42-135.1-12. Sale by certain methods prohibited.** – It shall be unlawful for any person  
18 to 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 **42-135.1-13. Appointment to fair drug pricing board – Meeting.** – All appointments  
22 to the fair drug pricing board must be made no later than August 15, 2004. The members shall  
23 hold an organizational meeting not later than ten (10) days after all members have been appointed  
24 and shall elect from among themselves a chairperson. The chairperson of the board shall call the  
25 first meeting of the board no later than September 1, 2004.

26 SECTION 2. This act shall take effect upon passage.

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LC01370  
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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

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- 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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