

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 745

By Senator Chapman

[Introduced February 12, 2024; referred
to the Committee on Health and Human Resources;
and then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §46A-9-1, §46A-9-2, and §46A-9-3, all relating to defining terms; requiring
 3 pharmacies in West Virginia to charge senior citizens the lowest national price for
 4 prescription drugs; and to granting enforcement powers to the Attorney General.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. OLDER WEST VIRGINIANS' PRESCRIPTION DRUG PRICING

§46A-9-1. Definitions.

1 For the purposes of this article:

2 (a) "Older individual" or "older West Virginian" or "senior" or "senior citizen" means an
 3 individual who is sixty years of age or older;

4 (b) "Lowest national price" means the lowest price for which that prescription is sold
 5 anywhere in the United States;

6 (c) "Personal representative" is a family member or caregiver who obtains from a
 7 pharmacy the prescriptions filled for a senior citizen on behalf of that senior citizen.

§46A-9-2. Prescription drug pricing for older West Virginians.

1 (a) It shall be unlawful for any pharmacist; pharmacy; or employee of a pharmacy to sell or
 2 offer to sell to any resident of West Virginia over the age of 60 or his or her personal representative
 3 any prescription drug at a price that is higher than the lowest price for which that medication is
 4 available in the United States.

5 (b) A pharmacist may require the person purchasing the medication to provide his or her
 6 date of birth or show any state-issued identification that provides the date of birth and address of
 7 the person for whom the prescription is written.

8 (c) In the event that a personal representative is obtaining the medications from the
 9 pharmacy on behalf of the senior citizen, the pharmacy employee or pharmacist may:

10 (1) Call the prescriber to confirm the age and residence of the patient;

11 (2) Request the personal representative to provide any state or federally-issued form of

12 identification or proof of residency and age.

§46A-9-3. Penalties, remedies, and enforcement.

1 (a) A violation of this article is an unfair or deceptive act or practice within the meaning of
2 §46A-6-102 of this code and is subject to the enforcement provisions and remedies provided by
3 this chapter.

4 (b) Any resident of West Virginia over the age of 60 who purchases prescription drugs at a
5 price that is higher than the lowest price for which that medication is available in the United States
6 may bring an action in the circuit court of the county in which the prescription was purchased to
7 recover treble damages or \$500, whichever is greater, and attorney fees. The court may, in its
8 discretion, provide such equitable relief it considers necessary and proper. Any party to an action
9 for damages under this subsection has the right to demand a jury trial.

NOTE: The purpose of this bill is to limit the price of prescription drugs to older West Virginians to the lowest price that drug is available in the United States.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.