HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 78

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO PRESCRIPTION DRUGS; PROHIBITING DISCRIMINATION AGAINST ENTITIES PARTICIPATING IN THE FEDERAL 340B DRUG PRICING PROGRAM; REQUIRING REPORTS.

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

SECTION 1. [NEW MATERIAL] PROHIBITION OF DISCRIMINATION AGAINST 340B ENTITIES.--

A. As used in this section:

(1) "340B drug" means a drug that is purchased at a discount in accordance with the 340B program requirements;

(2) "340B program" means the federal drug pricing program created pursuant to 42 U.S.C. Section 256b;

(3) "affiliate" means a person that directly or indirectly controls, is controlled by or is under common control with a manufacturer;

underscored material = new
[~~bracketed material~~] = delete

(4) "applicable entity" means one of the following types of organizations that is also certified to participate in the 340B program:

(a) an organization that receives federal grant funding and is: 1) a federally qualified health center; 2) a family planning project participating in the family planning program established by Title X of the federal Public Health Service Act of 1944, as amended; 3) a human immunodeficiency virus outpatient early intervention service provider that receives federal grants pursuant to Title XXVI of the federal Public Health Service Act of 1944, as amended; 4) an acquired immune deficiency syndrome drug purchasing assistance program operated by the state; 5) a comprehensive hemophilia diagnostic treatment center; 6) a sexually transmitted disease clinic; or 7) a tuberculosis clinic;

(b) a federally qualified health center lookalike;

(c) a state or local government unit providing outpatient prescription pharmacy treatment or services;

(d) a critical access hospital;

(e) a sole community hospital;

(f) an urban Indian health organization; or

(g) a university of New Mexico hospital

or health sciences center patient access point; and

(5) "manufacturer" means an entity licensed to manufacture prescription drugs pursuant to the Pharmacy Act.

B. A manufacturer, a manufacturer's agent or an affiliate of a manufacturer shall not directly or indirectly:

(1) deny, restrict, prohibit or interfere with the acquisition of a 340B drug by, or delivery of a 340B drug to, a pharmacy physically located in the state or contractually obligated with an applicable entity and is authorized to receive and dispense 340B drugs on behalf of the applicable entity unless receipt of the 340B drugs is prohibited by the United States department of health and human services;

(2) interfere with the ability of a pharmacy contracted with an applicable entity to dispense 340B drugs to the applicable entity's eligible patients; or

(3) require an applicable entity to submit any claims, utilization, purchasing or other data as a condition for allowing the acquisition of a 340B drug by, or delivery of a 340B drug to, an applicable entity unless the sharing of claims or utilization data is required by federal law.

C. By July 1, 2027 and annually thereafter, each applicable entity shall report to the department of health the following information and data from all sites and contract pharmacy arrangements operated by the applicable entity during the preceding year:

underscored material = new
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(1) the applicable entity's:

(a) name;

(b) service address;

(c) 340B program identification number;

(d) specific designation that identifies the type or types of organizations listed in Paragraph (4) of Subsection A of this section that the applicable entity qualifies as;

(e) operational costs related to participation in and compliance with the 340B program, including costs paid to outside vendors; and

(f) use of any savings from participating in the 340B program, including the amount of savings used for the provision of charity care, discounted care, community benefits or discounted health care to the indigent;

(2) the aggregate acquisition cost for all prescription drugs obtained under the 340B program;

(3) the aggregate payment amount received for all drugs obtained, dispensed and administered under the 340B program;

(4) a copy of the applicable entity's policy for providing low-income patients with financial assistance toward the cost of 340B drugs;

(5) the number and percentage of the

applicable entity's patients who received a discount on either a prescription drug dispensed or administered under the 340B program or another service provided by the applicable entity; and

(6) the financial demographics of the applicable entity's patients, including the percentage of:

(a) uninsured patients;

(b) patients who are medicaid beneficiaries; and

(c) patients who are beneficiaries of the children's health insurance program.