

**FIFTY-SIXTH LEGISLATURE  
FIRST SESSION, 2023**

March 16, 2023

Mr. Speaker:

Your **HEALTH & HUMAN SERVICES COMMITTEE**, to whom has been referred

**SENATE TAX, BUSINESS AND TRANSPORTATION COMMITTEE  
SUBSTITUTE FOR SENATE BILL 51, as amended**

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike all items of Senate Floor Amendment number 1.

2. On page 1, line 12, before the period, insert "ENACTING A NEW SECTION OF THE NEW MEXICO INSURANCE CODE TO PROHIBIT DISCRIMINATION AGAINST ENTITIES PARTICIPATING IN THE FEDERAL 340B DRUG PRICING PROGRAM".

3. On page 13, between lines 10 and 11, insert the following new section:

"SECTION 7. A new section of the New Mexico Insurance Code is enacted to read:

"[NEW MATERIAL] PROHIBITION ON DISCRIMINATION AGAINST A COVERED ENTITY.--

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) "covered entity" means an entity participating in the 340B program; and

(4) "pharmacy benefits manager" means an entity that provides pharmacy benefits management services.

B. A pharmacy benefits manager or a third party shall not discriminate against a covered entity on the basis of its participation in the 340B program by:

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(1) reimbursing a covered entity for a 340B drug at a rate lower than that paid for the same drug to pharmacies, similar in prescription volume, that are non-covered entities;

(2) assessing a fee, chargeback or other adjustment to the covered entity that is not assessed to non-covered entities;

(3) imposing a provision that prevents or interferes with a person's choice to receive 340B drugs from a covered entity; or

(4) imposing terms or conditions that differ from terms or conditions imposed on a non-covered entity, including:

(a) restricting or requiring participation in a pharmacy network;

(b) requiring more frequent auditing or a broader scope of audit for inventory management systems using generally accepted accounting principles;

(c) requiring a covered entity to reverse, resubmit or clarify a claim after the initial adjudication, unless these actions are in the normal course of pharmacy business and not related to the 340B program; or

(d) charging an additional fee or provision that prevents or interferes with an individual's choice to receive a 340B drug from a covered entity."".

Respectfully submitted,

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Elizabeth Thomson, Chair

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 2 Against  
Yes: 5  
No: Jones, Vincent  
Excused: Chávez  
Absent: Lord, Szczepanski

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