

LFC Requester:

Julisa Rodriguez

**AGENCY BILL ANALYSIS
2025 SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Date Prepared: 1/16/2025

Original **Amendment**

Bill No: HB 78

Correction **Substitute**

Sponsor: Elizabeth "Liz" Thompson

**Agency Name
and Code**

Office of the Superintendent of
Insurance - 440

Number:

Person Writing

Short

Analysis:

Viara Ianakieva

Title: Prohibit Discrimination Against 340B

Phone: 505-508-9073

Email: viara.ianakieva@osi.

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NA	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NA	NA	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NA	NA	NA	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: 2023 HB540
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

House Bill 78 (HB78) amends the Insurance Code to prohibit prescription drug manufacturers from discriminating against health care organizations defined as “covered entities.” Covered entities are defined as entities participating in the federal 340B Drug Pricing Program (Program) in Section 1 of HB78.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

The Program requires participating prescription drug manufacturers to supply certain drugs at significantly reduced prices to covered entities. Covered entities are typically health care organizations and include health centers, clinics, state AIDS drug assistance programs, Medicare and Medicaid disproportionate share hospitals, children’s hospitals, and other safety net providers. The discount pricing allows covered entities to stretch scarce resources to reach as many eligible patients as possible.

The Office of Superintendent of Insurance (OSI) does not regulate manufacturers, manufacturer's agents or an affiliate of a manufacturer as defined in HB78. OSI also does not regulate any of the covered entities as defined in the Program. Prescription drug manufacturers are regulated in the Pharmacy Act, Sections 61-11-1 *et seq.* NMSA 1978, see specifically Section 61-11-1.1 NMSA 1978. If the bill passes as is, OSI will not be able to enforce compliance.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

OSI does not regulate manufacturers, manufacturer's agents or an affiliate of a manufacturer as defined in HB78, nor does OSI regulate any of the covered entities as discussed above. If the bill passes as is, OSI will not be able to enforce compliance.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OSI does not regulate manufacturers, manufacturer's agents or an affiliate of a manufacturer as defined in HB 78, nor does OSI regulate any of the covered entities as discussed above. If the bill passes as is, OSI will not be able to enforce compliance.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

This Bill may better be served within the Pharmacy Act, Sections 61-11 *et seq.* NMSA 1978 since the New Mexico Board of Pharmacy has jurisdiction over drug manufacturers, manufacturer's agents and affiliates of a manufacturer as well as most 340B covered entities.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo. Manufacturers, manufacturer agents and affiliates of manufacturers will not be prohibited from discriminating against entities participating in The Federal 340b Drug Pricing Program.

AMENDMENTS

Amend line 12, p. 1, change New Mexico Insurance Code to Pharmacy Act
Amend line 17, p. 1, change New Mexico Insurance Code to Pharmacy Act