

HOUSE BILL 78

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

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PRESCRIPTION DRUGS; ENACTING A NEW SECTION OF THE NEW MEXICO INSURANCE CODE TO PROHIBIT DISCRIMINATION AGAINST ENTITIES PARTICIPATING IN THE FEDERAL 340B DRUG PRICING PROGRAM.

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

SECTION 1. A new section of the New Mexico Insurance Code is enacted to read:

.228978.2AIC February 6, 2025 (10:51am)

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"[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;

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

(5) "manufacturer" means an entity licensed to manufacture or distribute 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 that is under contract with a covered entity and is authorized to receive and dispense 340B drugs on behalf of the covered entity unless receipt of the 340B drugs is prohibited by the United States department of health and human services;

(2) interfere with HHHC→the ability of←HHHC a pharmacy contracted with a covered entity HHHC→to dispense 340B

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drugs to the covered entity's eligible patients←HHHC ; or

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