

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
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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.

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;

1 (4) "applicable entity" means an organization
2 that receives federal grant funding and is recognized by the
3 federal health resources and services administration as a
4 federally qualified health center or a federally qualified
5 health center lookalike; and

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

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

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

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

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