HOUSE BILL 78

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

INTRODUCED BY

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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:

"[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;

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

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

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

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

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

18   (2) interfere with a pharmacy contracted with
19   a covered entity; or

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

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