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HOUSE BILL 78

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

INTRODUCED BY

Elizabeth "Liz" Thomson and Elizabeth "Liz" Stefanics

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;

underscoring material = new
~~[bracketed material] = delete~~

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."