



General Assembly

Amendment

February Session, 2022

LCO No. 5741



Offered by:
SEN. LESSER, 9th Dist.

To: Subst. Senate Bill No. 355

File No. 354

Cal. No. 252

**"AN ACT ESTABLISHING THE 340B DRUG PRICING
NONDISCRIMINATION ACT."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2022*) (a) For the purposes of
4 this section and sections 2 and 3 of this act:

5 (1) "Covered drug" means a drug purchased or intending to be
6 purchased by a 340B covered entity that is subject to the federal pricing
7 requirements set forth in 42 USC 256b, as amended from time to time.

8 (2) "340B covered entity" means a provider participating in the federal
9 340B drug pricing program authorized by 42 USC 256b, as amended
10 from time to time.

11 (3) "Drug manufacturer" means the following:

12 (A) An entity described in 42 USC 1396r-8(k)(5) that is subject to the
13 pricing limitations set forth in 42 USC 256b; and

14 (B) A wholesaler described in 42 USC 1396r-8(k)(11) engaged in the
15 distribution of covered drugs for an entity described in 42 USC 1396r-
16 8(k)(5) that is subject to the pricing limitations set forth in 42 USC 256b.

17 (4) "Payer" means a pharmacy benefits manager.

18 (5) "Pharmacy benefits manager" has the same meaning as provided
19 in section 38a-479aaa of the general statutes and includes a wholly or
20 partially owned or controlled subsidiary of a pharmacy benefits
21 manager.

22 (6) "Specified pharmacy" means a pharmacy owned by, or under
23 contract with, a 340B covered entity that is registered with the 340B
24 discount drug purchasing program set forth in 42 USC 256b to dispense
25 covered drugs on behalf of the 340B covered entity, whether in person
26 or by mail.

27 (b) A payer shall not impose any requirements, conditions or
28 exclusions that:

29 (1) Discriminate against a 340B covered entity or a specified
30 pharmacy in connection with dispensing covered drugs; and

31 (2) Prevent a 340B covered entity from retaining the benefit of
32 discounted pricing for the purchase of covered drugs.

33 (c) Discrimination prohibited pursuant to subsection (b) of this
34 section includes:

35 (1) Payment terms, reimbursement methodologies, or other terms
36 and conditions that distinguish between covered drugs and other drugs,
37 account for the availability of discounts under the 340B discount drug
38 purchasing program set forth in 42 USC 256b in determining
39 reimbursement or are less favorable than the payment or purchase
40 terms or reimbursement methodologies for similarly situated entities
41 that are not furnishing or dispensing covered drugs;

42 (2) Terms or conditions applied to 340B covered entities or specified

43 pharmacies based on the furnishing or dispensing of covered drugs or
44 their status as a 340B covered entity or specified pharmacy, including
45 restrictions or requirements for participating in standard or preferred
46 pharmacy networks or requirements related to the frequency or scope
47 of audits;

48 (3) Requiring a 340B covered entity or specified pharmacy to identify,
49 either directly or through a third party, covered drugs or covered drug
50 costs or other information not sought from other drug purchasers;

51 (4) Refusing to contract with or terminating a contract with a 340B
52 covered entity or specified pharmacy, or otherwise excluding a 340B
53 covered entity or specified pharmacy from a standard or preferred
54 network, on the basis that such entity or pharmacy is a 340B covered
55 entity or a specified pharmacy or for reasons other than those that apply
56 equally to entities or pharmacies that are not 340B covered entities or
57 specified pharmacies;

58 (5) Refusing to sell covered drugs to a 340B covered entity or specified
59 pharmacy on the basis that such entity or pharmacy is a 340B covered
60 entity or specified pharmacy or for reasons other than those that apply
61 equally to entities or pharmacies that are not 340B covered entities or
62 specified pharmacies;

63 (6) Retaliation against a 340B covered entity or specified pharmacy
64 based on its exercise of any right or remedy under this section; and

65 (7) Interfering with an individual's choice to receive a covered drug
66 from a 340B covered entity or specified pharmacy, whether in person or
67 via direct delivery, mail or other form of shipment.

68 (d) This section shall apply to self-insured employee welfare benefit
69 plans, as defined in the federal Employee Retirement Income Security
70 Act of 1974, as amended from time to time, administered through a
71 pharmacy benefits manager.

72 (e) Notwithstanding any provision of title 38a and chapter 54 of the

73 general statutes, to the extent that any contract provisions contained
74 within a contract between a pharmacy benefits manager and a 340B
75 covered entity entered into, amended or renewed after October 1, 2022,
76 violates subsection (b) or (c) of this section, such provisions shall be
77 deemed void and unenforceable.

78 Sec. 2. (NEW) (*Effective October 1, 2022*) (a) A drug manufacturer shall
79 comply with federal pricing requirements set forth in 42 USC 256b when
80 selling covered drugs to 340B covered entities located in this state and
81 shall not impose any preconditions, limitations, delays or other barriers
82 to the purchase of covered drugs that are not required under 42 USC
83 256b.

84 (b) Preconditions, limitations, delays or other barriers prohibited by
85 subsection (a) of this section include:

86 (1) Implementation of policies or limitations that restrict the ability of
87 340B covered entities or specified pharmacies to dispense covered
88 drugs, including restrictions on the number or type of locations through
89 which covered drugs may be dispensed by or on behalf of a 340B
90 covered entity;

91 (2) Conditioning the sale of covered drugs for 340B covered entities
92 on enrollment with third-party vendors or on the sharing of claims
93 information or other data;

94 (3) Charging 340B covered entities for covered drugs at amounts
95 above the federal ceiling price, including policies that condition
96 discounts on rebate requests;

97 (4) Interfering with an individual's choice to receive a covered drug
98 from a 340B covered entity or specified pharmacy, whether in person or
99 via direct delivery, mail or other form of shipment;

100 (5) Delays in shipping covered drugs compared to drugs that are not
101 discounted; and

102 (6) Retaliation against a 340B covered entity or specified pharmacy

103 based on such entity's or pharmacy's exercise of any right or remedy
104 under this section.

105 Sec. 3. (NEW) (*Effective October 1, 2022*) (a) A 340B covered entity or
106 the Attorney General may seek a temporary or permanent injunction
107 and such other relief as may be appropriate to enjoin a pharmacy
108 benefits manager or drug manufacturer from continuing to enforce
109 contract provisions that violate the requirements set forth in subsections
110 (b) and (c) of section 1 of this act or subsections (a) and (b) of section 2
111 of this act. If the court determines that any such violation exists, it may
112 grant such injunctive relief and such other relief as justice may require
113 and may set a time period within which said pharmacy benefits
114 manager or drug manufacturer shall comply with any such order.

115 (b) Any appeal taken from any permanent injunction granted under
116 subsection (a) of this section shall not stay the operation of such
117 injunction unless the court is of the opinion that great and irreparable
118 injury will be done by not staying the operation of such injunction."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2022</i>	New section
Sec. 2	<i>October 1, 2022</i>	New section
Sec. 3	<i>October 1, 2022</i>	New section