



General Assembly

Amendment

February Session, 2022

LCO No. 6359



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 Sec. 2. (NEW) (*Effective October 1, 2022*) (a) A drug manufacturer shall
69 comply with federal pricing requirements set forth in 42 USC 256b when
70 selling covered drugs to 340B covered entities located in this state and
71 shall not impose any preconditions, limitations, delays or other barriers
72 to the purchase of covered drugs that are not required under 42 USC
73 256b.

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

76 (1) Implementation of policies or limitations that restrict the ability of
77 340B covered entities or specified pharmacies to dispense covered
78 drugs, including restrictions on the number or type of locations through
79 which covered drugs may be dispensed by or on behalf of a 340B
80 covered entity;

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

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

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

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

92 (6) Retaliation against a 340B covered entity or specified pharmacy
93 based on such entity's or pharmacy's exercise of any right or remedy
94 under this section.

95 Sec. 3. (NEW) (*Effective October 1, 2022*) (a) The Attorney General shall
96 have exclusive authority to enforce violations of section 1 and 2 of this
97 act.

98 (b) Nothing in sections 1 and 2 of this act shall be construed as
99 providing the basis for, or be subject to, a private right of action for
100 violations of said sections or any other law.

101 (c) A violation of the requirements of sections 1 and 2 of this act shall
102 constitute an unfair trade practice for purposes of section 42-110b of the

103 general statutes and shall be enforced solely by the Attorney General,
104 provided the provisions of section 42-110g of the general statutes shall
105 not apply to such violation."

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