

REFERENCE TITLE: discount prescription drugs; pharmacies

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1330

Introduced by
Senator Barto

AN ACT

AMENDING TITLE 20, CHAPTER 25, ARIZONA REVISED STATUTES, BY ADDING
ARTICLE 3; RELATING TO PHARMACY BENEFITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 20, chapter 25, Arizona Revised Statutes, is
3 amended by adding article 3, to read:

4 ARTICLE 3. 340B PHARMACIES

5 20-3341. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "CONTRACT PHARMACY" MEANS A PHARMACY OR PHARMACIES THAT A
8 COVERED ENTITY CONTRACTS WITH TO DISPENSE 340B DRUGS ON BEHALF OF THE
9 COVERED ENTITY.

10 2. "DRUG COVERAGE":

11 (a) MEANS ANY FORM OF COMPENSATION PAID TO A PHARMACY THAT
12 DISPENSES PRESCRIPTION DRUGS FOR A PATIENT UNDER A CONTRACTUAL OR OTHER
13 LEGAL OBLIGATION WITH A HEALTH INSURER OR PHARMACY BENEFIT MANAGER.

14 (b) DOES NOT INCLUDE EITHER:

15 (i) COVERAGE PROVIDED PURSUANT TO TITLE 36, CHAPTER 29, ARTICLE 1.

16 (ii) ANY AMOUNTS PAID BY AN INDIVIDUAL ON HIS OR HER OWN BEHALF OR
17 ON BEHALF OF ANOTHER INDIVIDUAL WITHOUT A CONTRACTUAL OR LEGAL OBLIGATION
18 TO DO SO.

19 3. "HEALTH CARE PLAN" HAS THE SAME MEANING PRESCRIBED IN SECTION
20 20-3151.

21 4. "HEALTH INSURER" HAS THE SAME MEANING PRESCRIBED IN SECTION
22 20-242.

23 5. "THIRD PARTY" MEANS A HEALTH INSURER OR PHARMACY BENEFIT MANAGER
24 THAT PROVIDES OR MANAGES DRUG COVERAGE UNDER A HEALTH CARE PLAN.

25 6. "340B COVERED ENTITY" MEANS AN ENTITY THAT PARTICIPATES IN THE
26 340B DRUG DISCOUNT PROGRAM AUTHORIZED BY 42 UNITED STATES CODE SECTION
27 256b AND INCLUDES THE ENTITY'S PHARMACY OR PHARMACIES.

28 7. "340B DRUG" MEANS A DRUG PURCHASED THROUGH THE 340B DRUG
29 DISCOUNT PROGRAM BY A 340B COVERED ENTITY.

30 20-3342. Applicability

31 A. THIS ARTICLE APPLIES TO THIRD PARTIES THAT PROVIDE OR MANAGE
32 DRUG COVERAGE UNDER A HEALTH CARE PLAN IN THIS STATE.

33 B. THIS ARTICLE DOES NOT APPLY TO THE ARIZONA HEALTH CARE COST
34 CONTAINMENT SYSTEM ADMINISTRATION AND ITS CONTRACTORS AS DEFINED IN
35 SECTION 36-2901 TO THE EXTENT THE SERVICES ARE PROVIDED PURSUANT TO TITLE
36 36, CHAPTER 29 OR 34 OR EQUIVALENT MEDICAID PROGRAMS FROM OTHER STATES.

37 20-3343. 340B drug program; 340B covered entities;
38 pharmacies; drug coverage

39 A. A THIRD PARTY THAT REIMBURSES A 340B COVERED ENTITY OR A 340B
40 COVERED ENTITY'S CONTRACT PHARMACY FOR DRUGS THAT ARE SUBJECT TO AN
41 AGREEMENT UNDER 42 UNITED STATES CODE SECTION 256b MAY NOT DO ANY OF THE
42 FOLLOWING:

43 1. REIMBURSE THE 340B COVERED ENTITY OR 340B COVERED ENTITY'S
44 CONTRACT PHARMACY FOR PHARMACY-DISPENSED DRUGS AT RATES LOWER THAN THE

1 RATES REIMBURSED FOR THE SAME DRUG TO PHARMACIES THAT ARE SIMILAR IN
2 PRESCRIPTION VOLUME AND THAT ARE NOT 340B COVERED ENTITIES.

3 2. ASSESS ANY FEE, CHARGEBACK, CLAWBACK, ADJUSTMENT OR OTHER
4 ASSESSMENT ON THE 340B COVERED ENTITY OR 340B COVERED ENTITY'S CONTRACT
5 PHARMACY ON THE BASIS THAT THE 340B COVERED ENTITY OR 340B COVERED
6 ENTITY'S CONTRACT PHARMACY PARTICIPATES IN THE PROGRAM SET FORTH IN 42
7 UNITED STATES CODE SECTION 256b.

8 3. RESTRICT ACCESS TO ANY OF THE THIRD PARTY'S PHARMACY NETWORKS
9 FOR ANY 340B COVERED ENTITY OR 340B COVERED ENTITY'S CONTRACT PHARMACY ON
10 THE BASIS THAT THE 340B COVERED ENTITY PARTICIPATES IN THE PROGRAM SET
11 FORTH IN 42 UNITED STATES CODE SECTION 256b.

12 4. REQUIRE THE 340B COVERED ENTITY TO ENTER INTO A CONTRACT WITH A
13 SPECIFIC PHARMACY OR HEALTH CARE PLAN TO PARTICIPATE IN THE THIRD PARTY'S
14 PHARMACY NETWORK.

15 5. ESTABLISH RESTRICTIONS OR ADDITIONAL CHARGES ON PATIENTS WHO
16 CHOOSE TO RECEIVE DRUGS FROM A 340B COVERED ENTITY OR A 340B COVERED
17 ENTITY'S CONTRACT PHARMACY.

18 6. RESTRICT THE METHODS OR PHARMACIES BY WHICH A 340B COVERED
19 ENTITY MAY DISPENSE OR DELIVER 340B DRUGS.

20 7. REFUSE TO PROVIDE REIMBURSEMENT OR COVERAGE FOR 340B DRUGS.

21 8. ESTABLISH ADDITIONAL REQUIREMENTS OR RESTRICTIONS ON THE 340B
22 COVERED ENTITY OR 340B COVERED ENTITY'S CONTRACT PHARMACY.

23 B. A PHARMACY BENEFIT MANAGER OR OTHER THIRD PARTY MAY NOT REQUIRE
24 A CLAIM FOR A DRUG TO INCLUDE A MODIFIER INDICATING THAT THE DRUG IS A
25 340B DRUG OR ANY OTHER METHOD OF IDENTIFYING THE CLAIM AS A 340B CLAIM,
26 UNLESS THE CLAIM IS FOR PAYMENT, DIRECTLY OR INDIRECTLY, BY THE MEDICAID
27 PROGRAM.

28 C. WITH RESPECT TO A PATIENT WHO IS ELIGIBLE TO RECEIVE DRUGS
29 SUBJECT TO AN AGREEMENT UNDER 42 UNITED STATES CODE SECTION 256b, A
30 PHARMACY BENEFIT MANAGER OR OTHER THIRD PARTY THAT PAYS FOR THE DRUGS MAY
31 NOT DISCRIMINATE AGAINST A 340B COVERED ENTITY IN A MANNER THAT PREVENTS
32 OR INTERFERES WITH THE PATIENT'S CHOICE TO RECEIVE THE DRUGS FROM THE 340B
33 COVERED ENTITY OR THAT INTERFERES WITH THE ABILITY OF A COVERED ENTITY TO
34 MAXIMIZE THE VALUE OF DISCOUNTS PROVIDED UNDER THE 340B DRUG DISCOUNT
35 PROGRAM.

36 20-3344. Rules; penalties

37 THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT THIS ARTICLE. THE
38 RULES SHALL SET FORTH PENALTIES, INCLUDING MONETARY PENALTIES, FOR
39 VIOLATIONS OF THIS ARTICLE AND THE RULES ADOPTED PURSUANT TO THIS ARTICLE.

40 20-3345. Unfair trade practice

41 A VIOLATION OF ANY PROVISION OF THIS ARTICLE BY A THIRD PARTY
42 CONSTITUTES AN UNFAIR OR DECEPTIVE ACT OR PRACTICE IN THE BUSINESS OF
43 INSURANCE UNDER THIS TITLE AND IS CONSIDERED VOID AND UNENFORCEABLE.