

REFERENCE TITLE: 340B drugs; covered entities; distribution

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1251

Introduced by
Senators Shope: Shamp

AN ACT

AMENDING TITLE 32, CHAPTER 18, ARTICLE 3, ARIZONA REVISED STATUTES, BY
ADDING SECTION 32-1980; RELATING TO THE ARIZONA STATE BOARD OF PHARMACY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 32, chapter 18, article 3, Arizona Revised
3 Statutes, is amended by adding section 32-1980, to read:

4 32-1980. 340B drug distribution; interference prohibited;
5 enforcement; definitions

6 A. A MANUFACTURER, REPACKAGER, THIRD-PARTY LOGISTICS PROVIDER OR
7 WHOLESAL DISTRIBUTOR, OR AN AGENT OR AFFILIATE OF A MANUFACTURER,
8 REPACKAGER, THIRD-PARTY LOGISTICS PROVIDER OR WHOLESAL DISTRIBUTOR, MAY
9 NOT, EITHER DIRECTLY OR INDIRECTLY, DO EITHER OF THE FOLLOWING:

10 1. DENY, RESTRICT, PROHIBIT, DISCRIMINATE AGAINST OR OTHERWISE
11 LIMIT THE ACQUISITION OF A 340B DRUG BY OR DELIVERY OF A 340B DRUG TO A
12 340B COVERED ENTITY, A PHARMACY CONTRACTED WITH A 340B COVERED ENTITY OR A
13 LOCATION AUTHORIZED BY THE 340B COVERED ENTITY TO RECEIVE 340B DRUGS
14 UNLESS THE RECEIPT OF THE 340B DRUG IS PROHIBITED BY THE UNITED STATES
15 DEPARTMENT OF HEALTH AND HUMAN SERVICES.

16 2. REQUIRE A 340B COVERED ENTITY TO SUBMIT ANY CLAIMS OR
17 UTILIZATION DATA AS A CONDITION FOR ALLOWING THE ACQUISITION OF A 340B
18 DRUG BY OR DELIVERY OF A 340B DRUG TO A 340B COVERED ENTITY UNLESS THE
19 CLAIMS OR UTILIZATION DATA SHARING IS REQUIRED BY THE UNITED STATES
20 DEPARTMENT OF HEALTH AND HUMAN SERVICES.

21 B. THE BOARD SHALL INVESTIGATE ANY COMPLAINT OF A VIOLATION OF
22 SUBSECTION A OF THIS SECTION BY A PERSON OR ENTITY THAT IS PERMITTED OR
23 LICENSED BY THE BOARD AND MAY IMPOSE DISCIPLINE, SUSPENSION OR REVOCATION
24 ON THE PERMITTED OR LICENSED PERSON OR ENTITY AS PROVIDED IN THIS CHAPTER.

25 C. A VIOLATION OF SUBSECTION A OF THIS SECTION IS SUBJECT TO
26 ENFORCEMENT BY THE ATTORNEY GENERAL AS AN UNLAWFUL PRACTICE PURSUANT TO
27 SECTION 44-1522. EACH PACKAGE OF 340B DRUGS THAT IS DETERMINED TO BE
28 SUBJECT TO A PROHIBITED ACT UNDER SUBSECTION A OF THIS SECTION CONSTITUTES
29 A SEPARATE VIOLATION.

30 D. THE BOARD MAY ADOPT RULES TO IMPLEMENT THIS SECTION.

31 E. THIS SECTION DOES NOT CREATE A PRIVATE CAUSE OF ACTION AGAINST A
32 PERSON OR ENTITY ACTING IN VIOLATION OF SUBSECTION A OF THIS SECTION.

33 F. THIS SECTION MAY NOT BE CONSTRUED OR APPLIED TO BE LESS
34 RESTRICTIVE THAN ANY FEDERAL LAW AS TO ANY PERSON OR ENTITY REGULATED BY
35 THIS SECTION. LIMITED DISTRIBUTION OF A DRUG REQUIRED UNDER 21 UNITED
36 STATES CODE SECTION 355-1 IS NOT A VIOLATION OF THIS SECTION. LIMITED
37 DISTRIBUTION OF A CONTROLLED SUBSTANCE PURSUANT TO A STATE OR FEDERAL LAW
38 OR COURT ORDER IS NOT A VIOLATION OF THIS SECTION. THIS SECTION MAY NOT
39 BE CONSTRUED OR APPLIED TO BE IN CONFLICT WITH EITHER:

40 1. ANY APPLICABLE FEDERAL LAW AND REGULATIONS ADOPTED PURSUANT TO
41 THAT LAW.

42 2. ANY OTHER LAW OF THIS STATE IF THE STATE LAW IS COMPATIBLE WITH
43 THE APPLICABLE FEDERAL LAW.

- 1 G. FOR THE PURPOSES OF THIS SECTION:
2 1. "REPACKAGER" HAS THE SAME MEANING PRESCRIBED IN 21 UNITED STATES
3 CODE SECTION 360^{eee}(16).
4 2. "340B COVERED ENTITY" HAS THE SAME MEANING PRESCRIBED IN SECTION
5 20-3341.
6 3. "340B DRUG" MEANS A DRUG THAT IS ALL OF THE FOLLOWING:
7 (a) A COVERED OUTPATIENT DRUG WITHIN THE MEANING OF 42 UNITED
8 STATES CODE SECTION 256^b.
9 (b) HAS BEEN SUBJECT TO ANY OFFER FOR REDUCED PRICES BY A
10 MANUFACTURER UNDER 42 UNITED STATES CODE SECTION 256^{b(a)}(1).
11 (c) IS PURCHASED BY A 340B COVERED ENTITY, INCLUDING THAT IT WOULD
12 HAVE BEEN PURCHASED BUT FOR THE RESTRICTION OR LIMITATION DESCRIBED IN
13 SUBSECTION A OF THIS SECTION.
14 4. "WHOLESALE DISTRIBUTOR" HAS THE MEANING PRESCRIBED IN 21 UNITED
15 STATES CODE SECTION 360^{eee}.