

LFC Requester:

Ruby Ann Esquibel

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 02/28/25

Check all that apply:

Bill Number: HB78

Original ☐ Correction ☐Amendment ☐ Substitute ☒

Sponsor: Rep. Liz Thomson

Short Title: Prohibit Discrimination Against

340B Entities

Agency Name

and Code

HCA 630

Number:

Person Writing

Keenan Ryan

Phone: 505.396.0223

Email Keenan.ryan@hca.nm**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0.0	\$0.0	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0.0	\$0.0	\$0.0	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	\$0.0	\$0.0	\$0.0	N/A	

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB78 proposes changes to the insurance code that prevent insurance companies from interfering with 340B covered entities' ability to acquire, deliver, or dispense 340B medications. HB78 also protects 340B covered entities' ability to use contract pharmacies for 340B services. Lastly HB78 prevents requiring utilization data for 340B claim audits except what is required by federal law.

This bill has also added reporting mechanisms that requires, all institutions that utilize 340B medications to report data to the department of health. This report will assess the how much money is being made by the program, how much charity care is given, among other information.

FISCAL IMPLICATIONS

This bill has no fiscal impact on the Medicaid program or the State Health Benefits (SHB) program.

SIGNIFICANT ISSUES

Medicaid

HB78 , **does not establish who has oversight enforcing the bills provisions.** This has the potential to cause confusion for Medicaid providers and managed care organizations. ~~While the bill only applies to the insurance code and not Medicaid~~—Medicaid has federal regulatory requirements that this bill seeks to prohibit with regard to 340B medications. Under Medicaid, it is necessary to collect reports on when 340B medications are dispensed by pharmacies to avoid duplicative medication cost reduction. Dispensing a medication at a 340B rate and then applying an additional Medicaid rebate is prohibited by federal law. The collection of reports allows Medicaid to ensure that duplicative cost reduction does not occur and to maintain compliance with law. If this bill is enacted, it must be made clear to providers that claims and utilization data would still be required to be collected by Medicaid even though manufacturers would be prohibited from doing so.

Under Turquoise Care, the Medical Assistance Division has chosen to require the managed care contracts' Pharmacy Benefit Managers (PBMs) to follow OSI rules. Should this bill pass, the Medical Assistance Division would need to amend the MCO contracts to clarify Medicaid vs. **OSI the undetermined agency's purview.** If ~~OSI~~ rules were followed without further clarification for Medicaid plans, there would be potential for noncompliance with federal rules.

For non-Medicaid payors, the bill would have the impact of making 340B transactions less transparent and ensures that discounts are not reported and would not be tracked.

State Health Benefits

SHB does not anticipate any direct impact on its plans.

PERFORMANCE IMPLICATIONS

Section 340B of the Public Health Service Act requires pharmaceutical manufacturers participating in Medicaid to sell outpatient drugs at discounted prices to health care organizations that care for many uninsured and low-income patients. These organizations include community health centers, children's hospitals, hemophilia treatment centers, critical access hospitals (CAHs), sole community hospitals (SCHs), rural referral centers (RRCs), and public and nonprofit disproportionate share hospitals (DSH) that serve low-income and indigent populations.

The program allows 340B hospitals to stretch limited federal resources to reduce the price of outpatient pharmaceuticals for patients and expand health services to the patients and communities they serve. Hospitals use 340B savings to provide free care for uninsured patients, offer free vaccines, provide services in mental health clinics, and implement medication management and community health programs.

While institutions have strict requirements to become 340B covered entities, they can contract some 340B services to private/for profit contract pharmacies. Medicaid programs can deny members from getting medications from these contracted pharmacies. New Mexico currently allows the use of contracted 340B contracted pharmacies.

ADMINISTRATIVE IMPLICATIONS

N/A

No IT impact.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

None for the HCA

OTHER SUBSTANTIVE ISSUES

None for the HCA

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Continuation of status quo

AMENDMENTS

An amendment was passed in the House and Health and Human Services Committee on 02/06/2025. The amendment largely clarifies the relationship between a pharmacy and covered entity. The impact of the amendment does not change the financial impact listed above.

There was a substitution in the House Judiciary Committee that was approved on 2/26/25. The substitution adds the reporting mechanism of the bill to the department of health and removes OSI oversight.