

SENATE No. 779

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to protect 340B providers.

PETITION OF:

NAME:

Jason M. Lewis

DISTRICT/ADDRESS:

Fifth Middlesex

SENATE No. 779

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 779) of Jason M. Lewis for legislation to protect 340B providers in the drug discount program. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act to protect 340B providers.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 32A of the General Laws, as appearing in the 2022 Official
2 Edition, is hereby amended by inserting after section 33, the following new section: -

3 Section 34.

4 (a) For purposes of this section:

5 (1) “340B drug” shall mean a drug that has been subject to any offer for reduced prices
6 by a manufacturer pursuant to 42 U.S.C. 256b and is purchased by a covered entity as defined by
7 42 U.S.C. 256b(a)(4).

8 (2) “340B entity” shall mean an entity participating or authorized to participate in the
9 federal 340B drug discount program, as defined by 42 U.S.C. 256b, including its pharmacy, or
10 any pharmacy contracted with the participating entity to dispense drugs purchased through the
11 340B drug discount program.

12 (3) “Health insurance issuer” shall mean the group insurance commission or a “carrier”
13 as defined in section 1 of chapter 176O.

14 (4) “Third party” shall mean a group health plan, a health insurance issuer offering group
15 or individual health insurance coverage, or a pharmacy benefit manager that reimburses a 340B
16 covered entity for drugs. Third party includes Medicaid managed care organizations, employee
17 benefit plans under the Employee Retirement Income Security Act of 1974, or Medicare Part C
18 or D plans. Third party does not include drugs reimbursed under Medicaid fee-for-service or a
19 self-pay patient.

20 (5) “Manufacturer” means a person who is engaged in manufacturing, preparing,
21 propagating, compounding, processing, packaging, repackaging or labeling a prescription drug as
22 defined in 247 CMR 2.00.

23 (6) “Pharmacy” includes the definition of “pharmacy” and “retail drug business” as
24 defined by section 1 of chapter 94C, and “Institutional pharmacy” as defined by section 39D of
25 chapter 112.

26 (7) “Pharmacy benefit manager” shall have the same meaning as defined by section 226
27 of chapter 175.

28 (b) With respect to reimbursement to a 340B entity for 340B drugs, a health insurance
29 issuer, pharmacy benefit manager, other third party payor, or their agents shall not do any of the
30 following:

31 (i) Reimburse a 340B entity for 340B drugs at a rate lower than that paid for the same
32 drug to entities that are not 340B entities or lower reimbursement for a claim on the basis that the
33 claim is for a 340B drug.

34 (ii) Impose any terms or conditions on any 340B entity with respect to any of the
35 following that differ from such terms or conditions applied to non-340B entities on the basis that
36 the entity participates in the federal 340B drug discount program set forth in 42 U.S.C.256b or
37 that a drug is a 340B drug including, without limitation, any of the following:

38 A. Fees, charges, clawbacks, or other adjustments or assessments. For purposes of this
39 Subsection, the term “other adjustment” includes placing any additional requirements,
40 restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or
41 fees to the 340B entity that are not placed upon other entities that do not participate in the 340B
42 drug discount program, including affiliate pharmacies of the health insurance issuer, pharmacy
43 benefit manager, or other third-party payor.

44 B. Dispensing fees that are less than the dispensing fees for non-340B entities.

45 C. Restrictions or requirements regarding participation in standard or preferred pharmacy
46 networks.

47 D. Requirements that a claim for a drug include any identification, billing modifier,
48 attestation, or other indication that a drug is a 340B drug in order to be processed or resubmitted
49 unless it is required by the Centers for Medicare and Medicaid Services, the executive office of
50 health and human services, or the division of medical assistance.

51 E. Any other restrictions, conditions, practices, or policies that are not imposed on non-
52 340B entities.

53 (iii) Require a 340B entity to reverse, resubmit, or clarify a claim after the initial
54 adjudication unless these actions are in the normal course of pharmacy business and not related
55 to 340B drug pricing.

56 (iv) Discriminate against a 340B entity in a manner that prevents or interferes with any
57 patient's choice to receive such drugs from the 340B entity, including the administration of such
58 drugs. For purposes of this subsection, it is considered a discriminatory practice that prevents or
59 interferes with a patient's choice to receive drugs at a 340B entity if a health insurance issuer,
60 pharmacy benefit manager, or other third-party payor places any additional requirements,
61 restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or
62 fees to the 340B entity, including but not limited to requiring a claim for a drug to include any
63 identification, billing modifier, attestation or other indication that a drug is a 340B drug in order
64 to be processed or resubmitted unless it is required by the Centers for Medicare and Medicaid
65 Services, the executive office of health and human services, or the division of medical assistance.

66 (v) Require a 340B entity to submit any claims, utilization, patient, or other data as a
67 condition for allowing the acquisition of a 340B drug by, or delivery of a 340B drug to, a 340B
68 entity unless the data is required by the United States Department of Health and Human Services,
69 Centers for Medicare and Medicaid Services, the executive office of health and human services,
70 or the division of medical assistance.

71 (vi) Include any other provision in a contract between a health insurance issuer, pharmacy
72 benefit manager, or other third-party payor and a 340B entity that discriminates against the 340B

73 entity or prevents or interferes with an individual's choice to receive a prescription drug from a
74 340B entity, including the administration of the drug, in person or via direct delivery, mail, or
75 other form of shipment, or creation of a restriction or additional charge on a patient who chooses
76 to receive drugs from a 340B entity.

77 (vii) Require or compel the submission of ingredient costs or pricing data pertaining to
78 340B drugs to any health insurance issuer, pharmacy benefit manager, or other third-party payor.

79 (viii) Exclude any 340B entity from the health insurance issuer, pharmacy benefit
80 manager, or other third party payor network on the basis that the 340B entity dispenses drugs
81 subject to an agreement under 42 U.S.C.256b, or refusing to contract with a 340B entity for
82 reasons other than those that apply equally to non-340B entities.

83 (ix) Nothing in this section applies to the division of medical assistance as payor when
84 Medicaid provides reimbursement for covered outpatient drugs as defined in 42 U.S.C. 1396r-
85 8(9k)).

86 (c) With respect to manufacturing or distribution of drugs related to 340B entities:

87 (i) A manufacturer or distributor shall not deny, restrict, prohibit, or otherwise interfere
88 with, either directly or indirectly, the acquisition of a 340B drug by, or delivery of a 340B drug
89 to, a pharmacy that is under contract with a 340B entity and is authorized under such contract to
90 receive and dispense 340B drugs on behalf of the covered entity unless such receipt is prohibited
91 by the United States Department of Health and Human Services.

92 (ii) A manufacturer or distributor shall not interfere with a pharmacy contracted with a
93 340B entity.

94 (iii) A manufacturer or distributor shall not require a 340B entity to submit any claims,
95 utilization, patient, or other data as a condition for allowing the acquisition of a 340B drug by, or
96 delivery of a 340B drug to, a 340B entity unless the data is required by the United States
97 Department of Health and Human Services.

98 SECTION 2. Chapter 175 of the General Laws, as so appearing, is hereby amended by
99 inserting after section 47UU, the following new section:-

100 Section 47VV.

101 (a) For purposes of this section:

102 (1) “340B drug” shall mean a drug that has been subject to any offer for reduced prices
103 by a manufacturer pursuant to 42 U.S.C. 256b and is purchased by a covered entity as defined by
104 42 U.S.C. 256b(a)(4).

105 (2) “340B entity” shall mean an entity participating or authorized to participate in the
106 federal 340B drug discount program, as defined by 42 U.S.C. 256b, including its pharmacy, or
107 any pharmacy contracted with the participating entity to dispense drugs purchased through the
108 340B drug discount program.

109 (3) “Health insurance issuer” shall mean “carrier” as defined in section 1 of chapter
110 176O.

111 (4) “Third party” shall mean a group health plan, a health insurance issuer offering group
112 or individual health insurance coverage, or a pharmacy benefit manager that reimburses a 340B
113 covered entity for drugs. Third party includes Medicaid managed care organizations, employee
114 benefit plans under the Employee Retirement Income Security Act of 1974, or Medicare Part C

115 or D plans. Third party does not include drugs reimbursed under Medicaid fee-for-service or a
116 self-pay patient.

117 (5) “Manufacturer” means a person who is engaged in manufacturing, preparing,
118 propagating, compounding, processing, packaging, repackaging or labeling a prescription drug as
119 defined in 247 CMR 2.00.

120 (6) “Pharmacy” includes the definition of “pharmacy” and “retail drug business” as
121 defined by section 1 of chapter 94C, and “Institutional pharmacy” as defined by section 39D of
122 chapter 112.

123 (7) “Pharmacy benefit manager” shall have the same meaning as defined by section 226
124 of chapter 175.

125 (b) With respect to reimbursement to a 340B entity for 340B drugs, a health insurance
126 issuer, pharmacy benefit manager, other third party payor, or their agents shall not do any of the
127 following:

128 (i) Reimburse a 340B entity for 340B drugs at a rate lower than that paid for the same
129 drug to entities that are not 340B entities or lower reimbursement for a claim on the basis that the
130 claim is for a 340B drug.

131 (ii) Impose any terms or conditions on any 340B entity with respect to any of the
132 following that differ from such terms or conditions applied to non-340B entities on the basis that
133 the entity participates in the federal 340B drug discount program set forth in 42 U.S.C.256b or
134 that a drug is a 340B drug including, without limitation, any of the following:

135 A. Fees, charges, clawbacks, or other adjustments or assessments. For purposes of this
136 Subsection, the term “other adjustment” includes placing any additional requirements,
137 restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or
138 fees to the 340B entity that are not placed upon other entities that do not participate in the 340B
139 drug discount program, including affiliate pharmacies of the health insurance issuer, pharmacy
140 benefit manager, or other third-party payor.

141 B. Dispensing fees that are less than the dispensing fees for non-340B entities.

142 C. Restrictions or requirements regarding participation in standard or preferred pharmacy
143 networks.

144 D. Restrictions or requirements regarding participation in standard or preferred pharmacy
145 network.

146 E. Requirements that a claim for a drug include any identification, billing modifier,
147 attestation, or other indication that a drug is a 340B drug in order to be processed or resubmitted
148 unless it is required by the United States Department of Health and Human Services, Centers for
149 Medicare and Medicaid Services, the executive office of health and human services, or the
150 division of medical assistance.

151 F. Any other restrictions, conditions, practices, or policies that are not imposed on non-
152 340B entities.

153 (iii) Require a 340B entity to reverse, resubmit, or clarify a claim after the initial
154 adjudication unless these actions are in the normal course of pharmacy business and not related
155 to 340B drug pricing.

156 (iv) Discriminate against a 340B entity in a manner that prevents or interferes with any
157 patient's choice to receive such drugs from the 340B entity, including the administration of such
158 drugs. For purposes of this subsection, it is considered a discriminatory practice that prevents or
159 interferes with a patient's choice to receive drugs at a 340B entity if a health insurance issuer,
160 pharmacy benefit manager, or other third-party payor places any additional requirements,
161 restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or
162 fees to the 340B entity, including but not limited to requiring a claim for a drug to include any
163 identification, billing modifier, attestation or other indication that a drug is a 340B drug in order
164 to be processed or resubmitted unless it is required by the United States Department of Health
165 and Human Services, Centers for Medicare and Medicaid Services, the executive office of health
166 and human services, or the division of medical assistance.

167 (v) Require a 340B entity to submit any claims, utilization, patient, or other data as a
168 condition for allowing the acquisition of a 340B drug by, or delivery of a 340B drug to, a 340B
169 entity unless the data is required by the United States Department of Health and Human Services,
170 Centers for Medicare and Medicaid Services, the executive office of health and human services,
171 or the division of medical assistance.

172 (vi) Include any other provision in a contract between a health insurance issuer, pharmacy
173 benefit manager, or other third-party payor and a 340B entity that discriminates against the 340B
174 entity or prevents or interferes with an individual's choice to receive a prescription drug from a
175 340B entity, including the administration of the drug, in person or via direct delivery, mail, or
176 other form of shipment, or creation of a restriction or additional charge on a patient who chooses
177 to receive drugs from a 340B entity.

178 (vii) Require or compel the submission of ingredient costs or pricing data pertaining to
179 340B drugs to any health insurance issuer, pharmacy benefit manager, or other third party payor.

180 (viii) Exclude any 340B entity from the health insurance issuer, pharmacy benefit
181 manager, or other third party payor network on the basis that the 340B entity dispenses drugs
182 subject to an agreement under 42 U.S.C.256b, or refusing to contract with a 340B entity for
183 reasons other than those that apply equally to non-340B entities.

184 (ix) Nothing in this section applies to the division of medical assistance as payor when
185 Medicaid provides reimbursement for covered outpatient drugs as defined in 42 U.S.C. 1396r-
186 8(9k)).

187 (c) With respect to manufacturing or distribution of drugs related to 340B entities:

188 (i) A manufacturer or distributor shall not deny, restrict, prohibit, or otherwise interfere
189 with, either directly or indirectly, the acquisition of a 340B drug by, or delivery of a 340B drug
190 to, a pharmacy that is under contract with a 340B entity and is authorized under such contract to
191 receive and dispense 340B drugs on behalf of the covered entity unless such receipt is prohibited
192 by the United States Department of Health and Human Services.

193 (ii) A manufacturer or distributor shall not interfere with a pharmacy contracted with a
194 340B entity.

195 (iii) A manufacturer or distributor shall not require a 340B entity to submit any claims,
196 utilization, patient, or other data as a condition for allowing the acquisition of a 340B drug by, or
197 delivery of a 340B drug to, a 340B entity unless the data is required by the United States
198 Department of Health and Human Services.

199 SECTION 3. Chapter 176A of the General Laws, as so appearing, is hereby amended by
200 inserting after section 39, the following new section:-

201 Section 40.

202 (a) For purposes of this section:

203 (1) “340B drug” shall mean a drug that has been subject to any offer for reduced prices
204 by a manufacturer pursuant to 42 U.S.C. 256b and is purchased by a covered entity as defined by
205 42 U.S.C. 256b(a)(4).

206 (2) “340B entity” shall mean an entity participating or authorized to participate in the
207 federal 340B drug discount program, as defined by 42 U.S.C. 256b, including its pharmacy, or
208 any pharmacy contracted with the participating entity to dispense drugs purchased through the
209 340B drug discount program.

210 (3) “Health insurance issuer” shall mean “carrier” as defined in section 1 of chapter
211 176O.

212 (4) “Third party” shall mean a group health plan, a health insurance issuer offering group
213 or individual health insurance coverage, or a pharmacy benefit manager that reimburses a 340B
214 covered entity for drugs. Third party includes Medicaid managed care organizations, employee
215 benefit plans under the Employee Retirement Income Security Act of 1974, or Medicare Part C
216 or D plans. Third party does not include drugs reimbursed under Medicaid fee-for-service or a
217 self-pay patient.

218 (5) “Manufacturer” means a person who is engaged in manufacturing, preparing,
219 propagating, compounding, processing, packaging, repackaging or labeling a prescription drug as
220 defined in 247 CMR 2.00.

221 (6) “Pharmacy” includes the definition of “pharmacy” and “retail drug business” as
222 defined by section 1 of chapter 94C, and “Institutional pharmacy” as defined by section 39D of
223 chapter 112.

224 (7) “Pharmacy benefit manager” shall have the same meaning as defined by section 226
225 of chapter 175.

226 (b) With respect to reimbursement to a 340B entity for 340B drugs, a health insurance
227 issuer, pharmacy benefit manager, other third party payor, or their agents shall not do any of the
228 following:

229 (i) Reimburse a 340B entity for 340B drugs at a rate lower than that paid for the same
230 drug to entities that are not 340B entities or lower reimbursement for a claim on the basis that the
231 claim is for a 340B drug.

232 (ii) Impose any terms or conditions on any 340B entity with respect to any of the
233 following that differ from such terms or conditions applied to non-340B entities on the basis that
234 the entity participates in the federal 340B drug discount program set forth in 42 U.S.C.256b or
235 that a drug is a 340B drug including, without limitation, any of the following:

236 A. Fees, charges, clawbacks, or other adjustments or assessments. For purposes of this
237 Subsection, the term “other adjustment” includes placing any additional requirements,
238 restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or

239 fees to the 340B entity that are not placed upon other entities that do not participate in the 340B
240 drug discount program, including affiliate pharmacies of the health insurance issuer, pharmacy
241 benefit manager, or other third-party payor.

242 B. Dispensing fees that are less than the dispensing fees for non-340B entities.

243 C. Restrictions or requirements regarding participation in standard or preferred pharmacy
244 networks.

245 D. Restrictions or requirements regarding participation in standard or preferred pharmacy
246 network.

247 E. Requirements that a claim for a drug include any identification, billing modifier,
248 attestation, or other indication that a drug is a 340B drug in order to be processed or resubmitted
249 unless it is required by the United States Department of Health and Human Services, Centers for
250 Medicare and Medicaid Services, the executive office of health and human services, or the
251 division of medical assistance.

252 F. Any other restrictions, conditions, practices, or policies that are not imposed on non-
253 340B entities.

254 (iii) Require a 340B entity to reverse, resubmit, or clarify a claim after the initial
255 adjudication unless these actions are in the normal course of pharmacy business and not related
256 to 340B drug pricing.

257 (iv) Discriminate against a 340B entity in a manner that prevents or interferes with any
258 patient's choice to receive such drugs from the 340B entity, including the administration of such
259 drugs. For purposes of this subsection, it is considered a discriminatory practice that prevents or

260 interferes with a patient's choice to receive drugs at a 340B entity if a health insurance issuer,
261 pharmacy benefit manager, or other third-party payor places any additional requirements,
262 restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or
263 fees to the 340B entity, including but not limited to requiring a claim for a drug to include any
264 identification, billing modifier, attestation or other indication that a drug is a 340B drug in order
265 to be processed or resubmitted unless it is required by the United States Department of Health
266 and Human Services, Centers for Medicare and Medicaid Services, the executive office of health
267 and human services, or the division of medical assistance.

268 (v) Require a 340B entity to submit any claims, utilization, patient, or other data as a
269 condition for allowing the acquisition of a 340B drug by, or delivery of a 340B drug to, a 340B
270 entity unless the data is required by the United States Department of Health and Human Services,
271 Centers for Medicare and Medicaid Services, the executive office of health and human services,
272 or the division of medical assistance.

273 (vi) Include any other provision in a contract between a health insurance issuer, pharmacy
274 benefit manager, or other third-party payor and a 340B entity that discriminates against the 340B
275 entity or prevents or interferes with an individual's choice to receive a prescription drug from a
276 340B entity, including the administration of the drug, in person or via direct delivery, mail, or
277 other form of shipment, or creation of a restriction or additional charge on a patient who chooses
278 to receive drugs from a 340B entity.

279 (vii) Require or compel the submission of ingredient costs or pricing data pertaining to
280 340B drugs to any health insurance issuer, pharmacy benefit manager, or other third party payor.

281 (viii) Exclude any 340B entity from the health insurance issuer, pharmacy benefit
282 manager, or other third party payor network on the basis that the 340B entity dispenses drugs
283 subject to an agreement under 42 U.S.C.256b, or refusing to contract with a 340B entity for
284 reasons other than those that apply equally to non-340B entities.

285 (ix) Nothing in this section applies to the division of medical assistance as payor when
286 Medicaid provides reimbursement for covered outpatient drugs as defined in 42 U.S.C. 1396r-
287 8(9k)).

288 (c) With respect to manufacturing or distribution of drugs related to 340B entities:

289 (i) A manufacturer or distributor shall not deny, restrict, prohibit, or otherwise interfere
290 with, either directly or indirectly, the acquisition of a 340B drug by, or delivery of a 340B drug
291 to, a pharmacy that is under contract with a 340B entity and is authorized under such contract to
292 receive and dispense 340B drugs on behalf of the covered entity unless such receipt is prohibited
293 by the United States Department of Health and Human Services.

294 (ii) A manufacturer or distributor shall not interfere with a pharmacy contracted with a
295 340B entity.

296 (iii) A manufacturer or distributor shall not require a 340B entity to submit any claims,
297 utilization, patient, or other data as a condition for allowing the acquisition of a 340B drug by, or
298 delivery of a 340B drug to, a 340B entity unless the data is required by the United States
299 Department of Health and Human Services.

300 SECTION 4. Chapter 176B of the General Laws, as so appearing, is hereby further
301 amended by inserting after section 26 the following new section: -

302 Section 27.

303 (a) For purposes of this section:

304 (1) “340B drug” shall mean a drug that has been subject to any offer for reduced prices
305 by a manufacturer pursuant to 42 U.S.C. 256b and is purchased by a covered entity as defined by
306 42 U.S.C. 256b(a)(4).

307 (2) “340B entity” shall mean an entity participating or authorized to participate in the
308 federal 340B drug discount program, as defined by 42 U.S.C. 256b, including its pharmacy, or
309 any pharmacy contracted with the participating entity to dispense drugs purchased through the
310 340B drug discount program.

311 (3) “Health insurance issuer” shall mean “carrier” as defined in section 1 of chapter
312 176O.

313 (4) “Third party” shall mean a group health plan, a health insurance issuer offering group
314 or individual health insurance coverage, or a pharmacy benefit manager that reimburses a 340B
315 covered entity for drugs. Third party includes Medicaid managed care organizations, employee
316 benefit plans under the Employee Retirement Income Security Act of 1974, or Medicare Part C
317 or D plans. Third party does not include drugs reimbursed under Medicaid fee-for-service or a
318 self-pay patient.

319 (5) “Manufacturer” means a person who is engaged in manufacturing, preparing,
320 propagating, compounding, processing, packaging, repackaging or labeling a prescription drug as
321 defined in 247 CMR 2.00.

322 (6) “Pharmacy” includes the definition of “pharmacy” and “retail drug business” as
323 defined by section 1 of chapter 94C, and “Institutional pharmacy” as defined by section 39D of
324 chapter 112.

325 (7) “Pharmacy benefit manager” shall have the same meaning as defined by section 226
326 of chapter 175.

327 (b) With respect to reimbursement to a 340B entity for 340B drugs, a health insurance
328 issuer, pharmacy benefit manager, other third party payor, or their agents shall not do any of the
329 following:

330 (i) Reimburse a 340B entity for 340B drugs at a rate lower than that paid for the same
331 drug to entities that are not 340B entities or lower reimbursement for a claim on the basis that the
332 claim is for a 340B drug.

333 (ii) Impose any terms or conditions on any 340B entity with respect to any of the
334 following that differ from such terms or conditions applied to non-340B entities on the basis that
335 the entity participates in the federal 340B drug discount program set forth in 42 U.S.C.256b or
336 that a drug is a 340B drug including, without limitation, any of the following:

337 A. Fees, charges, clawbacks, or other adjustments or assessments. For purposes of this
338 Subsection, the term “other adjustment” includes placing any additional requirements,
339 restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or
340 fees to the 340B entity that are not placed upon other entities that do not participate in the 340B
341 drug discount program, including affiliate pharmacies of the health insurance issuer, pharmacy
342 benefit manager, or other third-party payor.

- 343 B. Dispensing fees that are less than the dispensing fees for non-340B entities.
- 344 C. Restrictions or requirements regarding participation in standard or preferred pharmacy
345 networks.
- 346 D. Restrictions or requirements regarding participation in standard or preferred pharmacy
347 network.
- 348 E. Requirements that a claim for a drug include any identification, billing modifier,
349 attestation, or other indication that a drug is a 340B drug in order to be processed or resubmitted
350 unless it is required by the United States Department of Health and Human Services, Centers for
351 Medicare and Medicaid Services, the executive office of health and human services, or the
352 division of medical assistance.
- 353 F. Any other restrictions, conditions, practices, or policies that are not imposed on non-
354 340B entities.
- 355 (iii) Require a 340B entity to reverse, resubmit, or clarify a claim after the initial
356 adjudication unless these actions are in the normal course of pharmacy business and not related
357 to 340B drug pricing.
- 358 (iv) Discriminate against a 340B entity in a manner that prevents or interferes with any
359 patient's choice to receive such drugs from the 340B entity, including the administration of such
360 drugs. For purposes of this subsection, it is considered a discriminatory practice that prevents or
361 interferes with a patient's choice to receive drugs at a 340B entity if a health insurance issuer,
362 pharmacy benefit manager, or other third-party payor places any additional requirements,
363 restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or

364 fees to the 340B entity, including but not limited to requiring a claim for a drug to include any
365 identification, billing modifier, attestation or other indication that a drug is a 340B drug in order
366 to be processed or resubmitted unless it is required by the United States Department of Health
367 and Human Services, Centers for Medicare and Medicaid Services, the executive office of health
368 and human services, or the division of medical assistance.

369 (v) Require a 340B entity to submit any claims, utilization, patient, or other data as a
370 condition for allowing the acquisition of a 340B drug by, or delivery of a 340B drug to, a 340B
371 entity unless the data is required by the United States Department of Health and Human Services,
372 Centers for Medicare and Medicaid Services, the executive office of health and human services,
373 or the division of medical assistance.

374 (vi) Include any other provision in a contract between a health insurance issuer, pharmacy
375 benefit manager, or other third-party payor and a 340B entity that discriminates against the 340B
376 entity or prevents or interferes with an individual's choice to receive a prescription drug from a
377 340B entity, including the administration of the drug, in person or via direct delivery, mail, or
378 other form of shipment, or creation of a restriction or additional charge on a patient who chooses
379 to receive drugs from a 340B entity.

380 (vii) Require or compel the submission of ingredient costs or pricing data pertaining to
381 340B drugs to any health insurance issuer, pharmacy benefit manager, or other third party payor.

382 (viii) Exclude any 340B entity from the health insurance issuer, pharmacy benefit
383 manager, or other third party payor network on the basis that the 340B entity dispenses drugs
384 subject to an agreement under 42 U.S.C.256b, or refusing to contract with a 340B entity for
385 reasons other than those that apply equally to non-340B entities.

386 (ix) Nothing in this section applies to the division of medical assistance as payor when
387 Medicaid provides reimbursement for covered outpatient drugs as defined in 42 U.S.C. 1396r-
388 8(9k)).

389 (c) With respect to manufacturing or distribution of drugs related to 340B entities:

390 (i) A manufacturer or distributor shall not deny, restrict, prohibit, or otherwise interfere
391 with, either directly or indirectly, the acquisition of a 340B drug by, or delivery of a 340B drug
392 to, a pharmacy that is under contract with a 340B entity and is authorized under such contract to
393 receive and dispense 340B drugs on behalf of the covered entity unless such receipt is prohibited
394 by the United States Department of Health and Human Services.

395 (ii) A manufacturer or distributor shall not interfere with a pharmacy contracted with a
396 340B entity.

397 (iii) A manufacturer or distributor shall not require a 340B entity to submit any claims,
398 utilization, patient, or other data as a condition for allowing the acquisition of a 340B drug by, or
399 delivery of a 340B drug to, a 340B entity unless the data is required by the United States
400 Department of Health and Human Services.

401 SECTION 5. Chapter 176G of the General Laws, as so appearing, is hereby further
402 amended by inserting after section 34 the following new section:-

403 Section 35.

404 (a) For purposes of this section:

405 (1) “340B drug” shall mean a drug that has been subject to any offer for reduced prices
406 by a manufacturer pursuant to 42 U.S.C. 256b and is purchased by a covered entity as defined by
407 42 U.S.C. 256b(a)(4).

408 (2) “340B entity” shall mean an entity participating or authorized to participate in the
409 federal 340B drug discount program, as defined by 42 U.S.C. 256b, including its pharmacy, or
410 any pharmacy contracted with the participating entity to dispense drugs purchased through the
411 340B drug discount program.

412 (3) “Health insurance issuer” shall mean “carrier” as defined in section 1 of chapter
413 176O.

414 (4) “Third party” shall mean a group health plan, a health insurance issuer offering group
415 or individual health insurance coverage, or a pharmacy benefit manager that reimburses a 340B
416 covered entity for drugs. Third party includes Medicaid managed care organizations, employee
417 benefit plans under the Employee Retirement Income Security Act of 1974, or Medicare Part C
418 or D plans. Third party does not include drugs reimbursed under Medicaid fee-for-service or a
419 self-pay patient.

420 (5) “Manufacturer” means a person who is engaged in manufacturing, preparing,
421 propagating, compounding, processing, packaging, repackaging or labeling a prescription drug as
422 defined in 247 CMR 2.00.

423 (6) “Pharmacy” includes the definition of “pharmacy” and “retail drug business” as
424 defined by section 1 of chapter 94C, and “Institutional pharmacy” as defined by section 39D of
425 chapter 112.

426 (7) “Pharmacy benefit manager” shall have the same meaning as defined by section 226
427 of chapter 175.

428 (b) With respect to reimbursement to a 340B entity for 340B drugs, a health insurance
429 issuer, pharmacy benefit manager, other third party payor, or their agents shall not do any of the
430 following:

431 (i) Reimburse a 340B entity for 340B drugs at a rate lower than that paid for the same
432 drug to entities that are not 340B entities or lower reimbursement for a claim on the basis that the
433 claim is for a 340B drug.

434 (ii) Impose any terms or conditions on any 340B entity with respect to any of the
435 following that differ from such terms or conditions applied to non-340B entities on the basis that
436 the entity participates in the federal 340B drug discount program set forth in 42 U.S.C.256b or
437 that a drug is a 340B drug including, without limitation, any of the following:

438 A. Fees, charges, clawbacks, or other adjustments or assessments. For purposes of this
439 Subsection, the term “other adjustment” includes placing any additional requirements,
440 restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or
441 fees to the 340B entity that are not placed upon other entities that do not participate in the 340B
442 drug discount program, including affiliate pharmacies of the health insurance issuer, pharmacy
443 benefit manager, or other third-party payor.

444 B. Dispensing fees that are less than the dispensing fees for non-340B entities.

445 C. Restrictions or requirements regarding participation in standard or preferred pharmacy
446 networks.

447 D. Restrictions or requirements regarding participation in standard or preferred pharmacy
448 network.

449 E. Requirements that a claim for a drug include any identification, billing modifier,
450 attestation, or other indication that a drug is a 340B drug in order to be processed or resubmitted
451 unless it is required by the United States Department of Health and Human Services, Centers for
452 Medicare and Medicaid Services, the executive office of health and human services, or the
453 division of medical assistance.

454 F. Any other restrictions, conditions, practices, or policies that are not imposed on non-
455 340B entities.

456 (iii) Require a 340B entity to reverse, resubmit, or clarify a claim after the initial
457 adjudication unless these actions are in the normal course of pharmacy business and not related
458 to 340B drug pricing.

459 (iv) Discriminate against a 340B entity in a manner that prevents or interferes with any
460 patient's choice to receive such drugs from the 340B entity, including the administration of such
461 drugs. For purposes of this subsection, it is considered a discriminatory practice that prevents or
462 interferes with a patient's choice to receive drugs at a 340B entity if a health insurance issuer,
463 pharmacy benefit manager, or other third-party payor places any additional requirements,
464 restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or
465 fees to the 340B entity, including but not limited to requiring a claim for a drug to include any
466 identification, billing modifier, attestation or other indication that a drug is a 340B drug in order
467 to be processed or resubmitted unless it is required by the United States Department of Health

468 and Human Services, Centers for Medicare and Medicaid Services, the executive office of health
469 and human services, or the division of medical assistance.

470 (v) Require a 340B entity to submit any claims, utilization, patient, or other data as a
471 condition for allowing the acquisition of a 340B drug by, or delivery of a 340B drug to, a 340B
472 entity unless the data is required by the United States Department of Health and Human Services,
473 Centers for Medicare and Medicaid Services, the executive office of health and human services,
474 or the division of medical assistance.

475 (vi) Include any other provision in a contract between a health insurance issuer, pharmacy
476 benefit manager, or other third-party payor and a 340B entity that discriminates against the 340B
477 entity or prevents or interferes with an individual's choice to receive a prescription drug from a
478 340B entity, including the administration of the drug, in person or via direct delivery, mail, or
479 other form of shipment, or creation of a restriction or additional charge on a patient who chooses
480 to receive drugs from a 340B entity.

481 (vii) Require or compel the submission of ingredient costs or pricing data pertaining to
482 340B drugs to any health insurance issuer, pharmacy benefit manager, or other third party payor.

483 (viii) Exclude any 340B entity from the health insurance issuer, pharmacy benefit
484 manager, or other third party payor network on the basis that the 340B entity dispenses drugs
485 subject to an agreement under 42 U.S.C.256b, or refusing to contract with a 340B entity for
486 reasons other than those that apply equally to non-340B entities.

487 (ix) Nothing in this section applies to the division of medical assistance as payor when
488 Medicaid provides reimbursement for covered outpatient drugs as defined in 42 U.S.C. 1396r-
489 8(9k)).

490 (c) With respect to manufacturing or distribution of drugs related to 340B entities:

491 (i) A manufacturer or distributor shall not deny, restrict, prohibit, or otherwise interfere
492 with, either directly or indirectly, the acquisition of a 340B drug by, or delivery of a 340B drug
493 to, a pharmacy that is under contract with a 340B entity and is authorized under such contract to
494 receive and dispense 340B drugs on behalf of the covered entity unless such receipt is prohibited
495 by the United States Department of Health and Human Services.

496 (ii) A manufacturer or distributor shall not interfere with a pharmacy contracted with a
497 340B entity.

498 (iii) A manufacturer or distributor shall not require a 340B entity to submit any claims,
499 utilization, patient, or other data as a condition for allowing the acquisition of a 340B drug by, or
500 delivery of a 340B drug to, a 340B entity unless the data is required by the United States
501 Department of Health and Human Services.

502 SECTION 6. Chapter 176I of the General Laws, as so appearing, is hereby amended by
503 inserting after section 14 the following new section: -

504 Section 15.

505 (a) For purposes of this section:

506 (1) “340B drug” shall mean a drug that has been subject to any offer for reduced prices
507 by a manufacturer pursuant to 42 U.S.C. 256b and is purchased by a covered entity as defined by
508 42 U.S.C. 256b(a)(4).

509 (2) “340B entity” shall mean an entity participating or authorized to participate in the
510 federal 340B drug discount program, as defined by 42 U.S.C. 256b, including its pharmacy, or

511 any pharmacy contracted with the participating entity to dispense drugs purchased through the
512 340B drug discount program.

513 (3) “Health insurance issuer” shall mean “carrier” as defined in section 1 of chapter
514 176O.

515 (4) “Third party” shall mean a group health plan, a health insurance issuer offering group
516 or individual health insurance coverage, or a pharmacy benefit manager that reimburses a 340B
517 covered entity for drugs. Third party includes Medicaid managed care organizations, employee
518 benefit plans under the Employee Retirement Income Security Act of 1974, or Medicare Part C
519 or D plans. Third party does not include drugs reimbursed under Medicaid fee-for-service or a
520 self-pay patient.

521 (5) “Manufacturer” means a person who is engaged in manufacturing, preparing,
522 propagating, compounding, processing, packaging, repackaging or labeling a prescription drug as
523 defined in 247 CMR 2.00.

524 (6) “Pharmacy” includes the definition of “pharmacy” and “retail drug business” as
525 defined by section 1 of chapter 94C, and “Institutional pharmacy” as defined by section 39D of
526 chapter 112.

527 (7) “Pharmacy benefit manager” shall have the same meaning as defined by section 226
528 of chapter 175.

529 (b) With respect to reimbursement to a 340B entity for 340B drugs, a health insurance
530 issuer, pharmacy benefit manager, other third party payor, or their agents shall not do any of the
531 following:

532 (i) Reimburse a 340B entity for 340B drugs at a rate lower than that paid for the same
533 drug to entities that are not 340B entities or lower reimbursement for a claim on the basis that the
534 claim is for a 340B drug.

535 (ii) Impose any terms or conditions on any 340B entity with respect to any of the
536 following that differ from such terms or conditions applied to non-340B entities on the basis that
537 the entity participates in the federal 340B drug discount program set forth in 42 U.S.C.256b or
538 that a drug is a 340B drug including, without limitation, any of the following:

539 A. Fees, charges, clawbacks, or other adjustments or assessments. For purposes of this
540 Subsection, the term “other adjustment” includes placing any additional requirements,
541 restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or
542 fees to the 340B entity that are not placed upon other entities that do not participate in the 340B
543 drug discount program, including affiliate pharmacies of the health insurance issuer, pharmacy
544 benefit manager, or other third-party payor.

545 B. Dispensing fees that are less than the dispensing fees for non-340B entities.

546 C. Restrictions or requirements regarding participation in standard or preferred pharmacy
547 networks.

548 D. Restrictions or requirements regarding participation in standard or preferred pharmacy
549 network.

550 E. Requirements that a claim for a drug include any identification, billing modifier,
551 attestation, or other indication that a drug is a 340B drug in order to be processed or resubmitted
552 unless it is required by the United States Department of Health and Human Services, Centers for

553 Medicare and Medicaid Services, the executive office of health and human services, or the
554 division of medical assistance.

555 F. Any other restrictions, conditions, practices, or policies that are not imposed on non-
556 340B entities.

557 (iii) Require a 340B entity to reverse, resubmit, or clarify a claim after the initial
558 adjudication unless these actions are in the normal course of pharmacy business and not related
559 to 340B drug pricing.

560 (iv) Discriminate against a 340B entity in a manner that prevents or interferes with any
561 patient's choice to receive such drugs from the 340B entity, including the administration of such
562 drugs. For purposes of this subsection, it is considered a discriminatory practice that prevents or
563 interferes with a patient's choice to receive drugs at a 340B entity if a health insurance issuer,
564 pharmacy benefit manager, or other third-party payor places any additional requirements,
565 restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or
566 fees to the 340B entity, including but not limited to requiring a claim for a drug to include any
567 identification, billing modifier, attestation or other indication that a drug is a 340B drug in order
568 to be processed or resubmitted unless it is required by the United States Department of Health
569 and Human Services, Centers for Medicare and Medicaid Services, the executive office of health
570 and human services, or the division of medical assistance.

571 (v) Require a 340B entity to submit any claims, utilization, patient, or other data as a
572 condition for allowing the acquisition of a 340B drug by, or delivery of a 340B drug to, a 340B
573 entity unless the data is required by the United States Department of Health and Human Services,

574 Centers for Medicare and Medicaid Services, the executive office of health and human services,
575 or the division of medical assistance.

576 (vi) Include any other provision in a contract between a health insurance issuer, pharmacy
577 benefit manager, or other third-party payor and a 340B entity that discriminates against the 340B
578 entity or prevents or interferes with an individual's choice to receive a prescription drug from a
579 340B entity, including the administration of the drug, in person or via direct delivery, mail, or
580 other form of shipment, or creation of a restriction or additional charge on a patient who chooses
581 to receive drugs from a 340B entity.

582 (vii) Require or compel the submission of ingredient costs or pricing data pertaining to
583 340B drugs to any health insurance issuer, pharmacy benefit manager, or other third party payor.

584 (viii) Exclude any 340B entity from the health insurance issuer, pharmacy benefit
585 manager, or other third party payor network on the basis that the 340B entity dispenses drugs
586 subject to an agreement under 42 U.S.C.256b, or refusing to contract with a 340B entity for
587 reasons other than those that apply equally to non-340B entities.

588 (ix) Nothing in this section applies to the division of medical assistance as payor when
589 Medicaid provides reimbursement for covered outpatient drugs as defined in 42 U.S.C. 1396r-
590 8(9k)).

591 (c) With respect to manufacturing or distribution of drugs related to 340B entities:

592 (i) A manufacturer or distributor shall not deny, restrict, prohibit, or otherwise interfere
593 with, either directly or indirectly, the acquisition of a 340B drug by, or delivery of a 340B drug
594 to, a pharmacy that is under contract with a 340B entity and is authorized under such contract to

595 receive and dispense 340B drugs on behalf of the covered entity unless such receipt is prohibited
596 by the United States Department of Health and Human Services.

597 (ii) A manufacturer or distributor shall not interfere with a pharmacy contracted with a
598 340B entity.

599 (iii) A manufacturer or distributor shall not require a 340B entity to submit any claims,
600 utilization, patient, or other data as a condition for allowing the acquisition of a 340B drug by, or
601 delivery of a 340B drug to, a 340B entity unless the data is required by the United States
602 Department of Health and Human Services.