

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Pavel Payano

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 prohibiting discrimination against 340b drug discount program participants.

PETITION OF:

NAME:

Pavel Payano

DISTRICT/ADDRESS:

First Essex

SENATE No.

[Pin Slip]

The Commonwealth of Massachusetts

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

An Act prohibiting discrimination against 340b drug discount program participants.

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 Edition,
2 is hereby amended by inserting after Section 33, the following new section:-

3 Section 34

4 (a) DEFINITIONS. For purposes of this section:

5 (1) “340B-covered entity”, has the same meaning as that set forth in section 256b(a)(4) of
6 Title 42 of the United States Code.

7 (2) “Contract pharmacy” means a pharmacy operating under contract with a 340B-
8 covered entity to provide dispensing services to the 340B-covered entity as described in 75 Fed.
9 Reg. 10,272 (Mar. 5, 2010).

10 (3) “Drug coverage” means:

11 (i) An insurance company organized under this Chapter providing reimbursement for
12 covered outpatient drugs, accepting any Medicaid insurance plan of the Commonwealth as
13 defined in G. L. c. 118E or other applicable laws governing Medicaid in the Commonwealth;

14 (ii) Notwithstanding the foregoing, the term “drug coverage” does not include any
15 amounts paid by an individual on his or her own behalf or on behalf of another individual.

16 (b) TERMS OF AGREEMENTS. No drug coverage that reimburses a-340B-covered
17 entity or its contract pharmacy for drugs that are subject to an agreement under section
18 256b(a)(1) of Title 42 of the United States Code:

19 (i) Shall reimburse a covered entity or contract pharmacy for a quantity of a 340B drug in
20 an amount less than such plan, issuer, or manager would pay to any other similarly situated entity
21 or pharmacy that is not a covered entity or a contract pharmacy for such quantity of such drug on
22 the basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or
23 pharmacy dispenses 340B drugs.

24 (ii) Shall discriminate against a 340B-covered entity (as defined in subsection (a)(1)) or a
25 contract pharmacy (as defined in subsection (a)(2)) by imposing requirements, exclusions,
26 reimbursement terms, or other conditions on such entity or pharmacy that differ from those
27 applied to entities or pharmacies that are not 340B-covered entities or contract pharmacies on the
28 basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or
29 pharmacy dispenses 340B drugs, including by taking any action prohibited under subsection (b).

30 (iii) Shall impose any terms or conditions on 340B-covered entities or contract
31 pharmacies with respect to any of the following that differ from such terms or conditions applied
32 to other similarly situated entities or pharmacies that are not 340B-covered entities or contract

33 pharmacies on the basis that the entity or pharmacy is a 340B-covered entity or contract
34 pharmacy or that the entity or pharmacy dispenses 340B drugs:

35 (A) Fees, chargebacks, clawbacks, adjustments, or other assessments.

36 (B) Professional dispensing fees.

37 (C) Restrictions or requirements regarding participation in standard or preferred
38 pharmacy networks.

39 (D) Requirements relating to the frequency or scope of audits or to inventory
40 management systems using generally accepted accounting principles.

41 (iv) Shall require a claim for a drug to include a modifier to indicate that the drug is a
42 340B drug, or any other method of identifying the claim as 340B, unless the claim is for
43 payment, directly or indirectly, by Medicaid as defined in Section 8 of Chapter 118E.

44 (c) Patient's Choice. With respect to a patient eligible to receive drugs that are subject to
45 an agreement under section 256b of Title 42 of the United States Code from a 340B-covered
46 entity or its contract pharmacy, no entity that makes payment for such drugs shall discriminate
47 against the 340B-covered entity or its contract pharmacy in a manner that prevents, steers, or
48 otherwise interferes with the patient's choice to receive such drugs from the 340B-covered entity
49 or its contract pharmacy.

50 SECTION 2. Chapter 175 of the General laws, as appearing in the 2024 Official Edition,
51 is hereby amended by inserting after Section 47UU, the following new section:-

52 Section 47VV

53 (a) DEFINITIONS. For purposes of this section:

54 (1) “340B drug”, a drug that has been subject to any offer for reduced prices by a
55 manufacturer pursuant to section 256b of Title 42 of the United States Code and is purchased by
56 a 340B grantee as defined in this section.

57 (2) “340B grantee”, has the same meaning as “covered entity” set forth in section
58 256b(a)(4) of Title 42 of the United States Code

59 (3) “Distributor”, a person engaged in the sale, distribution or delivery, at wholesale, of
60 drugs or medicines within the commonwealth, including entities operating outside of the
61 commonwealth that cause deliveries of drugs or medicines to be made within the
62 commonwealth.

63 (4) “Federally qualified health center”, an entity receiving a grant under section 254(b) of
64 Title 42 of the United State Code.

65 (5) “Manufacturer” means a “manufacturer” of covered outpatient drugs as set forth in
66 section 1396r-8(k)(5) of Title 42 of the United States Code that has signed a pharmaceutical
67 pricing agreement pursuant to section 256b(a)(1) of Title 42 of the United States Code.

68 (6) “Pharmacy”, an entity engaged in the drug business, as defined in section 37 of
69 chapter 112, or engaged in the practice of compounding to fulfill a practitioner prescription.

70 (7) “Package”, the smallest individual saleable unit of product for distribution by a
71 manufacturer or repackager that is intended by the manufacturer for ultimate sale to the dispenser
72 of such product.

73 (b) A manufacturer or distributor, agent, or affiliate of such manufacturer or distributor
74 shall not:

75 (i) either directly or indirectly, deny, restrict, prohibit, discriminate against, or otherwise
76 interfere with the acquisition of a 340B drug by, or delivery of a 340B drug to, a pharmacy that
77 is under contract with, or is otherwise authorized by, a 340B grantee to receive 340B drugs on
78 behalf of the 340B grantee unless such receipt is prohibited by the United States Department of
79 Health and Human Services; or

80 (ii) interfere with a contract between a pharmacy and a 340B grantee.

81 (c) A manufacturer or distributor, agent, or affiliate of such manufacturer or distributor
82 shall not, either directly or indirectly, require a 340B grantee, or a pharmacy that is under
83 contract with a 340B grantee or is otherwise authorized by a 340B grantee to receive and
84 dispense 340B drugs on behalf of the 340B grantee, to submit any claims, utilization, purchasing,
85 or other data as a condition for allowing the acquisition of a 340B drug by, or delivery of a 340B
86 drug to, a 340B grantee or a pharmacy that is under contract with a 340B grantee, unless the
87 claims or utilization data sharing is required by the United States Department of Health and
88 Human Services.

89 (d) The commission of any act prohibited under subsection (b) of this section shall
90 constitute an unfair or deceptive practice within the meaning of section 2 of chapter 93A. Each
91 package of 340B drugs subject to a prohibited act under subsection (b) shall constitute a separate
92 violation.

93 (e) The attorney general shall have jurisdiction, consistent with the provisions of chapter
94 93A, to enforce the provisions of this section. The attorney general shall issue regulations to
95 implement this chapter.

96 (f) The board of registration in pharmacy shall promulgate regulations to implement and
97 enforce this section and may investigate any complaint of a violation of this section by an
98 individual or entity licensed by the board and may impose discipline, suspension or revocation of
99 any such license.

100 (g) Nothing in this section shall be construed or applied to be less restrictive than any
101 federal law as to any person or entity regulated by this section or to conflict with: (i) any
102 applicable federal law and related regulations; or (ii) any other general law that is compatible
103 with applicable federal law.

104 (h) Limited distribution of a drug required under section 355-1 of Title 21 of the United
105 States Code shall not be a violation of this section.

106 (i) If any provision or provisions of this Section 47VV is or are declared unconstitutional
107 or inoperative by a final judgement, order or decree of the Supreme Court of the United States or
108 of the Supreme Judicial Court of the commonwealth, the remaining parts of said Section shall
109 not be affected thereby.

110 SECTION 3. Chapter 175 of the General laws, as appearing in the 2024 Official Edition,
111 is hereby further amended by inserting after Section 47VV, inserted by Section 2, the following
112 new section:-

113 Section 47WW

114 (a) DEFINITIONS. For purposes of this section:

115 (1) “340B-covered entity”, has the same meaning as that set forth in section 256b(a)(4) of
116 Title 42 of the United States Code.

117 (2) “Contract pharmacy” means a pharmacy operating under contract with a 340B-
118 covered entity to provide dispensing services to the 340B-covered entity as described in 75 Fed.
119 Reg. 10,272 (Mar. 5, 2010).

120 (3) “Drug coverage” means:

121 (i) An insurance company organized under this Chapter providing reimbursement for
122 covered outpatient drugs, accepting any Medicaid insurance plan of the Commonwealth as
123 defined in G. L. c. 118E or other applicable laws governing Medicaid in the Commonwealth;

124 (ii) Notwithstanding the foregoing, the term “drug coverage” does not include any
125 amounts paid by an individual on his or her own behalf or on behalf of another individual.

126 (b) TERMS OF AGREEMENTS. No drug coverage that reimburses a-340B-covered
127 entity or its contract pharmacy for drugs that are subject to an agreement under section
128 256b(a)(1) of Title 42 of the United States Code:

129 (i) Shall reimburse a covered entity or contract pharmacy for a quantity of a 340B drug in
130 an amount less than such plan, issuer, or manager would pay to any other similarly situated entity
131 or pharmacy that is not a covered entity or a contract pharmacy for such quantity of such drug on
132 the basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or
133 pharmacy dispenses 340B drugs.

134 (ii) Shall discriminate against a 340B-covered entity (as defined in subsection (a)(1)) or a
135 contract pharmacy (as defined in subsection (a)(2)) by imposing requirements, exclusions,
136 reimbursement terms, or other conditions on such entity or pharmacy that differ from those
137 applied to entities or pharmacies that are not 340B-covered entities or contract pharmacies on the
138 basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or
139 pharmacy dispenses 340B drugs, including by taking any action prohibited under subsection (b).

140 (iii) Shall impose any terms or conditions on 340B-covered entities or contract
141 pharmacies with respect to any of the following that differ from such terms or conditions applied
142 to other similarly situated entities or pharmacies that are not 340B-covered entities or contract
143 pharmacies on the basis that the entity or pharmacy is a 340B-covered entity or contract
144 pharmacy or that the entity or pharmacy dispenses 340B drugs:

145 (A) Fees, chargebacks, clawbacks, adjustments, or other assessments.

146 (B) Professional dispensing fees.

147 (C) Restrictions or requirements regarding participation in standard or preferred
148 pharmacy networks.

149 (D) Requirements relating to the frequency or scope of audits or to inventory
150 management systems using generally accepted accounting principles.

151 (iv) Shall require a claim for a drug to include a modifier to indicate that the drug is a
152 340B drug, or any other method of identifying the claim as 340B, unless the claim is for
153 payment, directly or indirectly, by Medicaid as defined in Section 8 of Chapter 118E.

154 (c) Patient’s Choice. With respect to a patient eligible to receive drugs that are subject to
155 an agreement under section 256b of Title 42 of the United States Code from a 340B-covered
156 entity or its contract pharmacy, no entity that makes payment for such drugs shall discriminate
157 against the 340B-covered entity or its contract pharmacy in a manner that prevents, steers, or
158 otherwise interferes with the patient’s choice to receive such drugs from the 340B-covered entity
159 or its contract pharmacy.

160 SECTION 4. Chapter 176A of the General laws, as appearing in the 2024 Official
161 Edition, is hereby amended by inserting after Section 38, the following Section:

162 Section 39

163 (a) DEFINITIONS. For purposes of this section:

164 (1) “340B-covered entity”, has the same meaning as that set forth in section 256b(a)(4) of
165 Title 42 of the United States Code.

166 (2) “Contract pharmacy” means a pharmacy operating under contract with a 340B-
167 covered entity to provide dispensing services to the 340B-covered entity as described in 75 Fed.
168 Reg. 10,272 (Mar. 5, 2010).

169 (3) “Drug coverage” means:

170 (i) An insurance company organized under this Chapter providing reimbursement for
171 covered outpatient drugs, accepting any Medicaid insurance plan of the Commonwealth as
172 defined in G. L. c. 118E or other applicable laws governing Medicaid in the Commonwealth;

173 (ii) Notwithstanding the foregoing, the term “drug coverage” does not include any
174 amounts paid by an individual on his or her own behalf or on behalf of another individual.

175 (b) TERMS OF AGREEMENTS. No drug coverage that reimburses a-340B-covered
176 entity or its contract pharmacy for drugs that are subject to an agreement under section
177 256b(a)(1) of Title 42 of the United States Code:

178 (i) Shall reimburse a covered entity or contract pharmacy for a quantity of a 340B drug in
179 an amount less than such plan, issuer, or manager would pay to any other similarly situated entity
180 or pharmacy that is not a covered entity or a contract pharmacy for such quantity of such drug on
181 the basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or
182 pharmacy dispenses 340B drugs.

183 (ii) Shall discriminate against a 340B-covered entity (as defined in subsection (a)(1)) or a
184 contract pharmacy (as defined in subsection (a)(2)) by imposing requirements, exclusions,
185 reimbursement terms, or other conditions on such entity or pharmacy that differ from those
186 applied to entities or pharmacies that are not 340B-covered entities or contract pharmacies on the
187 basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or
188 pharmacy dispenses 340B drugs, including by taking any action prohibited under subsection (b).

189 (iii) Shall impose any terms or conditions on 340B-covered entities or contract
190 pharmacies with respect to any of the following that differ from such terms or conditions applied
191 to other similarly situated entities or pharmacies that are not 340B-covered entities or contract
192 pharmacies on the basis that the entity or pharmacy is a 340B-covered entity or contract
193 pharmacy or that the entity or pharmacy dispenses 340B drugs:

194 (A) Fees, chargebacks, clawbacks, adjustments, or other assessments.

195 (B) Professional dispensing fees.

196 (C) Restrictions or requirements regarding participation in standard or preferred
197 pharmacy networks.

198 (D) Requirements relating to the frequency or scope of audits or to inventory
199 management systems using generally accepted accounting principles.

200 (iv) Shall require a claim for a drug to include a modifier to indicate that the drug is a
201 340B drug, or any other method of identifying the claim as 340B, unless the claim is for
202 payment, directly or indirectly, by Medicaid as defined in Section 8 of Chapter 118E.

203 (c) Patient’s Choice. With respect to a patient eligible to receive drugs that are subject to
204 an agreement under section 256b of Title 42 of the United States Code from a 340B-covered
205 entity or its contract pharmacy, no entity that makes payment for such drugs shall discriminate
206 against the 340B-covered entity or its contract pharmacy in a manner that prevents, steers, or
207 otherwise interferes with the patient’s choice to receive such drugs from the 340B-covered entity
208 or its contract pharmacy.

209 SECTION 5. Section 1 of Chapter 176B of the General laws, as appearing in the 2024
210 Official Edition, is hereby amended by inserting after the definition of “Commissioner”, the
211 following new definitions:

212 “340B-covered entity”, has the same meaning as that set forth in section 256b(a)(4) of
213 Title 42 of the United States Code.

214 “Contract pharmacy” means a pharmacy operating under contract with a 340B-covered
215 entity to provide dispensing services to the 340B-covered entity as described in 75 Fed. Reg.
216 10,272 (Mar. 5, 2010).

217 “Drug coverage” means:

218 (i) An insurance company organized under this Chapter providing reimbursement for
219 covered outpatient drugs, accepting any Medicaid insurance plan of the Commonwealth as
220 defined in G. L. c. 118E or other applicable laws governing Medicaid in the Commonwealth;

221 (ii) Notwithstanding the foregoing, the term “drug coverage” does not include any
222 amounts paid by an individual on his or her own behalf or on behalf of another individual.

223 SECTION 6. Chapter 176B of the General laws, as appearing in the 2024 Official
224 Edition, is hereby further amended by inserting after Section 25 the following new section:-

225 Section 26.

226 (a) TERMS OF AGREEMENTS. No drug coverage that reimburses a-340B-covered
227 entity or its contract pharmacy for drugs that are subject to an agreement under section
228 256b(a)(1) of Title 42 of the United States Code:

229 (i) Shall reimburse a covered entity or contract pharmacy for a quantity of a 340B drug in
230 an amount less than such plan, issuer, or manager would pay to any other similarly situated entity
231 or pharmacy that is not a covered entity or a contract pharmacy for such quantity of such drug on
232 the basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or
233 pharmacy dispenses 340B drugs.

234 (ii) Shall discriminate against a 340B-covered entity (as defined in subsection (a)(1)) or a
235 contract pharmacy (as defined in subsection (a)(2)) by imposing requirements, exclusions,
236 reimbursement terms, or other conditions on such entity or pharmacy that differ from those
237 applied to entities or pharmacies that are not 340B-covered entities or contract pharmacies on the

238 basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or
239 pharmacy dispenses 340B drugs, including by taking any action prohibited under subsection (b).

240 (iii) Shall impose any terms or conditions on 340B-covered entities or contract
241 pharmacies with respect to any of the following that differ from such terms or conditions applied
242 to other similarly situated entities or pharmacies that are not 340B-covered entities or contract
243 pharmacies on the basis that the entity or pharmacy is a 340B-covered entity or contract
244 pharmacy or that the entity or pharmacy dispenses 340B drugs:

245 (A) Fees, chargebacks, clawbacks, adjustments, or other assessments.

246 (B) Professional dispensing fees.

247 (C) Restrictions or requirements regarding participation in standard or preferred
248 pharmacy networks.

249 (D) Requirements relating to the frequency or scope of audits or to inventory
250 management systems using generally accepted accounting principles.

251 (iv) Shall require a claim for a drug to include a modifier to indicate that the drug is a
252 340B drug, or any other method of identifying the claim as 340B, unless the claim is for
253 payment, directly or indirectly, by Medicaid as defined in Section 8 of Chapter 118E.

254 (b) Patient's Choice. With respect to a patient eligible to receive drugs that are subject to
255 an agreement under section 256b of Title 42 of the United States Code from a 340B-covered
256 entity or its contract pharmacy, no entity that makes payment for such drugs shall discriminate
257 against the 340B-covered entity or its contract pharmacy in a manner that prevents, steers, or

258 otherwise interferes with the patient’s choice to receive such drugs from the 340B-covered entity
259 or its contract pharmacy.

260 SECTION 7. Section 1 of Chapter 176G of the General laws, as appearing in the 2024
261 Official Edition, is hereby amended by inserting after the definition of “Company”, the following
262 new definitions:

263 “340B-covered entity”, has the same meaning as that set forth in section 256b(a)(4) of
264 Title 42 of the United States Code.

265 “Contract pharmacy” means a pharmacy operating under contract with a 340B-covered
266 entity to provide dispensing services to the 340B-covered entity as described in 75 Fed. Reg.
267 10,272 (Mar. 5, 2010).

268 “Drug coverage” means:

269 (i) An insurance company organized under this Chapter providing reimbursement for
270 covered outpatient drugs, accepting any Medicaid insurance plan of the Commonwealth as
271 defined in G. L. c. 118E or other applicable laws governing Medicaid in the Commonwealth;

272 (ii) Notwithstanding the foregoing, the term “drug coverage” does not include any
273 amounts paid by an individual on his or her own behalf or on behalf of another individual.

274 SECTION 8. Chapter 176G of the General laws, as appearing in the 2024 Official
275 Edition, is hereby further amended by inserting after Section 33 the following new section:-

276 Section 34.

277 (a) TERMS OF AGREEMENTS. No drug coverage that reimburses a-340B-covered
278 entity or its contract pharmacy for drugs that are subject to an agreement under section
279 256b(a)(1) of Title 42 of the United States Code:

280 (i) Shall reimburse a covered entity or contract pharmacy for a quantity of a 340B drug in
281 an amount less than such plan, issuer, or manager would pay to any other similarly situated entity
282 or pharmacy that is not a covered entity or a contract pharmacy for such quantity of such drug on
283 the basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or
284 pharmacy dispenses 340B drugs.

285 (ii) Shall discriminate against a 340B-covered entity (as defined in subsection (a)(1)) or a
286 contract pharmacy (as defined in subsection (a)(2)) by imposing requirements, exclusions,
287 reimbursement terms, or other conditions on such entity or pharmacy that differ from those
288 applied to entities or pharmacies that are not 340B-covered entities or contract pharmacies on the
289 basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or
290 pharmacy dispenses 340B drugs, including by taking any action prohibited under subsection (b).

291 (iii) Shall impose any terms or conditions on 340B-covered entities or contract
292 pharmacies with respect to any of the following that differ from such terms or conditions applied
293 to other similarly situated entities or pharmacies that are not 340B-covered entities or contract
294 pharmacies on the basis that the entity or pharmacy is a 340B-covered entity or contract
295 pharmacy or that the entity or pharmacy dispenses 340B drugs:

296 (A) Fees, chargebacks, clawbacks, adjustments, or other assessments.

297 (B) Professional dispensing fees.

298 (C) Restrictions or requirements regarding participation in standard or preferred
299 pharmacy networks.

300 (D) Requirements relating to the frequency or scope of audits or to inventory
301 management systems using generally accepted accounting principles.

302 (iv) Shall require a claim for a drug to include a modifier to indicate that the drug is a
303 340B drug, or any other method of identifying the claim as 340B, unless the claim is for
304 payment, directly or indirectly, by Medicaid as defined in Section 8 of Chapter 118E.

305 (b) Patient’s Choice. With respect to a patient eligible to receive drugs that are subject to
306 an agreement under section 256b of Title 42 of the United States Code from a 340B-covered
307 entity or its contract pharmacy, no entity that makes payment for such drugs shall discriminate
308 against the 340B-covered entity or its contract pharmacy in a manner that prevents, steers, or
309 otherwise interferes with the patient’s choice to receive such drugs from the 340B-covered entity
310 or its contract pharmacy.

311 SECTION 9. Section 1 of Chapter 176I of the General laws, as appearing in the 2024
312 Official Edition, is hereby amended by inserting after the definition of “Commissioner”, the
313 following new definitions:

314 “340B-covered entity”, has the same meaning as that set forth in section 256b(a)(4) of
315 Title 42 of the United States Code.

316 “Contract pharmacy” means a pharmacy operating under contract with a 340B-covered
317 entity to provide dispensing services to the 340B-covered entity as described in 75 Fed. Reg.
318 10,272 (Mar. 5, 2010).

319 “Drug coverage” means:

320 (i) An insurance company organized under this Chapter providing reimbursement for
321 covered outpatient drugs, accepting any Medicaid insurance plan of the Commonwealth as
322 defined in G. L. c. 118E or other applicable laws governing Medicaid in the Commonwealth;

323 (ii) Notwithstanding the foregoing, the term “drug coverage” does not include any
324 amounts paid by an individual on his or her own behalf or on behalf of another individual.

325 SECTION 10. Chapter 176I of the General laws, as appearing in the 2024 Official
326 Edition, is hereby further amended by inserting after Section 13 the following new section:-

327 Section 14.

328 (a) TERMS OF AGREEMENTS. No drug coverage that reimburses a-340B-covered
329 entity or its contract pharmacy for drugs that are subject to an agreement under section
330 256b(a)(1) of Title 42 of the United States Code:

331 (i) Shall reimburse a covered entity or contract pharmacy for a quantity of a 340B drug in
332 an amount less than such plan, issuer, or manager would pay to any other similarly situated entity
333 or pharmacy that is not a covered entity or a contract pharmacy for such quantity of such drug on
334 the basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or
335 pharmacy dispenses 340B drugs.

336 (ii) Shall discriminate against a 340B-covered entity (as defined in subsection (a)(1)) or a
337 contract pharmacy (as defined in subsection (a)(2)) by imposing requirements, exclusions,
338 reimbursement terms, or other conditions on such entity or pharmacy that differ from those
339 applied to entities or pharmacies that are not 340B-covered entities or contract pharmacies on the

340 basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or
341 pharmacy dispenses 340B drugs, including by taking any action prohibited under subsection (b).

342 (iii) Shall impose any terms or conditions on 340B-covered entities or contract
343 pharmacies with respect to any of the following that differ from such terms or conditions applied
344 to other similarly situated entities or pharmacies that are not 340B-covered entities or contract
345 pharmacies on the basis that the entity or pharmacy is a 340B-covered entity or contract
346 pharmacy or that the entity or pharmacy dispenses 340B drugs:

347 (A) Fees, chargebacks, clawbacks, adjustments, or other assessments.

348 (B) Professional dispensing fees.

349 (C) Restrictions or requirements regarding participation in standard or preferred
350 pharmacy networks.

351 (D) Requirements relating to the frequency or scope of audits or to inventory
352 management systems using generally accepted accounting principles.

353 (iv) Shall require a claim for a drug to include a modifier to indicate that the drug is a
354 340B drug, or any other method of identifying the claim as 340B, unless the claim is for
355 payment, directly or indirectly, by Medicaid as defined in Section 8 of Chapter 118E.

356 (b) Patient's Choice. With respect to a patient eligible to receive drugs that are subject to
357 an agreement under section 256b of Title 42 of the United States Code from a 340B-covered
358 entity or its contract pharmacy, no entity that makes payment for such drugs shall discriminate
359 against the 340B-covered entity or its contract pharmacy in a manner that prevents, steers, or

360 otherwise interferes with the patient's choice to receive such drugs from the 340B-covered entity
361 or its contract pharmacy.