

# SENATE BILL NO. 1035

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BECK.

3525S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to payments for prescription drugs, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 376, RSMo, is amended by adding thereto  
2 one new section, to be known as section 376.414, to read as  
3 follows:

**376.414. 1. For purposes of this section, the  
2 following terms mean:**

3 (1) "340B drug", a drug that is:

4 (a) A covered outpatient drug as defined in Section  
5 340B of the Public Health Service Act, 42 U.S.C. Section  
6 256b, enacted by Section 602 of the Veterans Health Care Act  
7 of 1992, Pub. L. 102-585; and

8 (b) Purchased under an agreement entered into under 42  
9 U.S.C. Section 256b;

10 (2) "Covered entity", a federally-qualified health  
11 center as defined in 42 U.S.C. Section 256b(a)(4)(A);

12 (3) "Health carrier", the same meaning given to the  
13 term in section 376.1350;

14 (4) "Pharmacy benefits manager", the same meaning  
15 given to the term in section 376.388;

16 (5) "Specified pharmacy", a pharmacy licensed under  
17 chapter 338 with which a covered entity has contracted to  
18 dispense 340B drugs on behalf of the covered entity,

19 regardless of whether the 340B drugs are distributed in  
20 person or through the mail.

21 2. A health carrier or pharmacy benefits manager shall  
22 not discriminate against a covered entity or a specified  
23 pharmacy by doing any of the following:

24 (1) Reimbursing a covered entity or specified pharmacy  
25 for a quantity of a 340B drug in an amount less than such  
26 health carrier or pharmacy benefits manager would pay to any  
27 other similarly situated pharmacy that is not a covered  
28 entity or a specified pharmacy for such quantity of such  
29 drug on the basis that the entity or pharmacy is a covered  
30 entity or specified pharmacy or that the entity or pharmacy  
31 dispenses 340B drugs;

32 (2) Imposing any terms or conditions on covered  
33 entities or specified pharmacies that differ from such terms  
34 or conditions applied to other similarly situated pharmacies  
35 that are not covered entities or specified pharmacies on the  
36 basis that the entity or pharmacy is a covered entity or  
37 specified pharmacy or that the entity or pharmacy dispenses  
38 340B drugs, including, but not limited to, terms or  
39 conditions with respect to any of the following:

40 (a) Fees, chargebacks, clawbacks, adjustments, or  
41 other assessments;

42 (b) Professional dispensing fees;

43 (c) Restrictions or requirements regarding  
44 participation in standard or preferred pharmacy networks;

45 (d) Requirements relating to the frequency or scope of  
46 audits or to inventory management systems using generally  
47 accepted accounting principles;

48 (e) Transferring the benefit of 340B drug-pricing  
49 savings from one entity, including covered entities and  
50 their underserved patients, to another entity, including

- 51 without limitation pharmacy benefits managers, private  
52 insurers, health carriers, and managed care organizations;
- 53 (f) Pricing that occurs when offering a lower  
54 reimbursement for a drug purchased under 340B drug pricing  
55 than for the same drug not purchased under 340B drug pricing;
- 56 (g) Refusal to cover drugs purchased under 340B drug  
57 pricing;
- 58 (h) Refusal to allow 340B drug-pricing pharmacies to  
59 participate in networks;
- 60 (i) Charging more than fair market value or seeking  
61 profit sharing in exchange for services involving 340B drug  
62 pricing;
- 63 (j) Limiting the number of 340B drug-pricing  
64 pharmacies with which a covered entity may have agreements  
65 to be specified pharmacies;
- 66 (k) Requiring a covered entity to report more or  
67 additional data as a condition of having more than one  
68 specified pharmacy; and
- 69 (l) Any other restrictions, conditions, practices, or  
70 policies that, as specified by the director of the  
71 department of commerce and insurance, interfere with the  
72 ability of a covered entity to maximize the value of  
73 discounts provided under 42 U.S.C. Section 256b;
- 74 (3) Interfering with an individual's choice to receive  
75 a 340B drug from a covered entity or specified pharmacy,  
76 whether in person or via direct delivery, mail, or other  
77 form of shipment;
- 78 (4) Requiring a covered entity or specified pharmacy  
79 to identify, either directly or through a third party, 340B  
80 drugs; or
- 81 (5) Refusing to contract with a covered entity or  
82 specified pharmacy for reasons other than those that apply

83 equally to entities or pharmacies that are not covered  
84 entities or specified pharmacies, or on the basis that:

85 (a) The entity or pharmacy is a covered entity or a  
86 specified pharmacy; or

87 (b) The entity or pharmacy is described in any of  
88 subparagraphs (A) to (O) of 42 U.S.C. Section 256b(a)(4).

89 3. The director of the department of commerce and  
90 insurance shall impose a civil penalty on any pharmacy  
91 benefits manager that violates the requirements of this  
92 section. Such penalty shall not exceed five thousand  
93 dollars per violation per day.

94 4. The director of the department of commerce and  
95 insurance shall promulgate rules to implement the provisions  
96 of this section. Any rule or portion of a rule, as that  
97 term is defined in section 536.010, that is created under  
98 the authority delegated in this section shall become  
99 effective only if it complies with and is subject to all of  
100 the provisions of chapter 536 and, if applicable, section  
101 536.028. This section and chapter 536 are nonseverable and  
102 if any of the powers vested with the general assembly  
103 pursuant to chapter 536 to review, to delay the effective  
104 date, or to disapprove and annul a rule are subsequently  
105 held unconstitutional, then the grant of rulemaking  
106 authority and any rule proposed or adopted after August 28,  
107 2024, shall be invalid and void.

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