

MEDICATION AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to pharmaceutical drugs.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ merges provisions related to federally qualified health centers and 340B entities;
- ▶ enacts provisions related to how insurers and pharmacy benefit managers interact

with 340B entities; and

- ▶ limits how a pharmaceutical company can interact with a 340B entity, directly or indirectly.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-46-310, as enacted by Laws of Utah 2021, Chapter 317

31A-48-102, as last amended by Laws of Utah 2022, Chapter 198

ENACTS:

31A-48-104, Utah Code Annotated 1953



28 REPEALS:

29 **31A-46-309**, as enacted by Laws of Utah 2020, Chapter 275

30 **31A-48-101**, as enacted by Laws of Utah 2020, Chapter 198

31

32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **31A-46-310** is amended to read:

34 **31A-46-310. Prohibited actions .**

35 [~~(1) As used in this section, "federally qualified health center":~~]

36 [~~(a) means the same as that term is defined in 42 U.S.C. Sec. 1395x(aa)(4); and~~]

37 [~~(b) includes the pharmacy or pharmacies that are operated by or contract with a~~
38 ~~federally qualified health center described in Subsection (1)(a) to dispense drugs purchased~~
39 ~~through the federally qualified health center.]~~

40 (1) As used in this section, "insurance entity" means:

41 (a) an insurer or an agent of an insurer; or

42 (b) a pharmacy service entity or an agent of a pharmacy service entity.

43 (2) This section applies to a contract entered into or renewed on or after January 1,
44 [2022, between an insurer and a pharmacy described in Subsection (1)(b)] 2025, between a
45 340B entity and an insurance entity.

46 (3) An [insurer] insurance entity may not vary the amount that the [insurer] insurance
47 entity reimburses to a [federally qualified health center] 340B entity for a drug on the basis of
48 whether:

49 (a) the drug is a 340B drug; or

50 (b) the pharmacy dispensing the drug is a 340B entity.

51 (4) Subsection (3) does not apply to a drug reimbursed, directly or indirectly, by the
52 Medicaid program.

53 (5) An [insurer or an insurer's pharmacy service] insurance entity may not:

54 (a) on the basis that a [federally qualified health center] 340B entity participates,
55 directly or through a contractual arrangement, in the 340B drug discount program:

56 (i) refuse to contract with the 340B entity;

57 [(i)] (ii) assess a fee, charge-back, or other adjustment on a [federally qualified health
58 center] 340B entity;

- 59 ~~[(iv)]~~ (iii) restrict access to the ~~[insurer's]~~ insurance entity's pharmacy network;
- 60 ~~[(iii)]~~ (iv) require the ~~[federally-qualified health center]~~ 340B entity to enter into a
- 61 contract with a specific pharmacy to participate in the ~~[insurer's]~~ insurance entity's pharmacy
- 62 network;
- 63 ~~[(iv)]~~ (v) create a restriction or an additional charge on a patient who chooses to
- 64 receive drugs from a ~~[federally-qualified health center]~~ 340B entity; ~~[or]~~
- 65 (vi) modify a copayment or other cost-sharing requirement of a patient of the 340B
- 66 entity; or
- 67 ~~[(v)]~~ (vii) create any additional requirements or restrictions on the ~~[federally-qualified~~
- 68 ~~health center]~~ 340B entity; ~~[or]~~
- 69 (b) base drug formulary or drug coverage decisions on whether a drug is a 340B drug
- 70 or whether a dispensing pharmacy is a 340B entity;
- 71 (c) transfer the benefit of 340B drug discount program savings from a 340B entity to an
- 72 insurance entity;
- 73 (d) unilaterally modify the definition of pharmacy in a way that is inconsistent with
- 74 Utah law through a contract, provider manual, or other means;
- 75 (e) require the 340B entity to reverse, resubmit, or clarify a claim for a 340B drug after
- 76 an initial adjudication;
- 77 (f) charge or hold a 340B entity responsible for a fee related to a claim:
- 78 (i) that is not apparent at the time of claim processing;
- 79 (ii) that is not reported on the remittance advice of an adjudicated claim; or
- 80 (iii) after the initial claim is adjudicated at the point of sale; or
- 81 ~~[(b)]~~ (g) require a claim for a drug to include a modifier to indicate that the drug is a
- 82 340B drug unless the claim is for payment, directly or indirectly, by the Medicaid program.
- 83 Section 2. Section **31A-48-102** is amended to read:
- 84 **31A-48-102. Definitions.**
- 85 As used in this chapter:
- 86 (1) "340B drug" means the same as that term is defined in Section [31A-46-102](#).
- 87 (2) "340B entity" means the same as that term is defined in Section [31A-46-102](#).
- 88 ~~[(1)]~~ (3) (a) "Drug" means a substance that is:
- 89 (i) (A) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of

90 disease in humans; and

91 (B) recognized in or in a supplement to the official United States Pharmacopoeia, the
92 Homeopathic Pharmacopoeia of the United States, or the official National Formulary;

93 (ii) required by an applicable federal or state law or rule to be dispensed by prescription
94 only;

95 (iii) restricted to administration by practitioners only;

96 (iv) a substance other than food intended to affect the structure or a function of the
97 human body; or

98 (v) intended for use as a component of a substance described in Subsection [(1)(a)(i);
99 (ii), (iii), or (iv)] (3)(a)(i), (ii), (iii), or (iv).

100 (b) "Drug" does not include a dietary supplement.

101 [~~2~~] (4) "Insurer" means the same as that term is defined in Section 31A-22-634.

102 [~~3~~] (5) "Manufacturer" means a person that is engaged in the manufacturing of a drug
103 that is available for purchase by residents of the state.

104 (6) "Pharmaceutical manufacturer" means the same as that term is defined in Section
105 [31A-46-102](#).

106 (7) "Pharmacy" means the same as that term is defined in Section [58-17b-102](#).

107 [~~4~~] (8) "Rebate" means the same as that term is defined in Section [31A-46-102](#).

108 [~~5~~] (9) "Wholesale acquisition cost" means the same as that term is defined in 42
109 U.S.C. Sec. 1395w-3a.

110 Section 3. Section **31A-48-104** is enacted to read:

111 **31A-48-104. Prohibited conduct.**

112 A pharmaceutical manufacturer, or any person involved in the distribution of a
113 pharmaceutical manufacturer's products, may not directly or indirectly:

114 (1) prohibit a pharmacy from contracting with a 340B entity, including by denying the
115 pharmacy access to a drug that is manufactured by the pharmaceutical manufacturer;

116 (2) prohibit a 340B entity from contracting with a pharmacy, including by denying the
117 340B entity access to a drug that is manufactured by the pharmaceutical manufacturer;

118 (3) deny or restrict a 340B entity from:

119 (a) acquiring or dispensing a 340B drug; or

120 (b) receiving 340B drug discount program pricing for a 340B drug, including by

121 imposing a time limitation on a 340B entity to replenish or submit a claim for a 340B drug;
122 (4) require a 340B entity to purchase a 340B drug from a certain supplier if the
123 pharmaceutical manufacturer, or person involved in the distribution of the pharmaceutical
124 manufacturer's products, would otherwise permit the 340B entity to purchase a drug that is not
125 a 340B drug from the supplier; or
126 (5) otherwise interfere with:
127 (a) a contract between a pharmacy and a 340B entity; or
128 (b) the ability of a pharmacy and a 340B entity to enter into a contract.

129 Section 4. **Repealer.**

130 This bill repeals:

131 Section **31A-46-309, Reimbursement -- Prohibitions.**

132 Section **31A-48-101, Title.**

133 Section 5. **Effective date.**

134 This bill takes effect on May 1, 2024.