

HOUSE BILL 1890

By Helton

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 56 and Title 71, relative to pharmacy benefit  
managers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 31, is amended by  
adding the following as a new section:

(a) As used in this section:

(1) "Third party":

(A) Includes a medicaid managed care organization as described  
in 42 U.S.C. § 1396b(m); and

(B) Does not include TennCare when TennCare is providing  
reimbursement for covered outpatient drugs, as defined in 42 U.S.C. §  
1396r-8(k), on a fee-for-service basis; and

(2) "340B entity" means an entity participating in the federal 340B drug  
discount program, as described in 42 U.S.C. § 256b, including the entity's  
pharmacy or pharmacies, or any pharmacy or pharmacies contracted with the  
entity to dispense drugs purchased through the program.

(b) With respect to a patient eligible to receive drugs subject to an agreement  
under 42 U.S.C. § 256b, a pharmacy benefit manager, or any third party that makes  
payment for those drugs, shall not discriminate against:

(1) A 340B entity in a manner that prevents or interferes with the patient's  
choice to receive those drugs from the 340B entity;

(2) A pharmacy participating in a health plan as an entity authorized to participate under 42 U.S.C. § 256b in a manner that prevents or interferes with the patient's choice to receive those drugs from the pharmacy; or

(3) A 340B entity regarding reimbursement for pharmacy-dispensed drugs by reimbursing at a rate lower than that paid for the same drug to pharmacies that are not 340B entities, and shall not assess any fee or other adjustment upon the 340B entity, or exclude a 340B pharmacy from the pharmacy benefit manager's or third party's pharmacy network, on the basis that the 340B entity participates in the program described in 42 U.S.C. § 256b.

(c) This section creates a private cause of action for a pharmacy or 340B entity against a pharmacy benefit manager or third party who violates this section.

SECTION 2. This act shall take effect July 1, 2020, the public welfare requiring it, and applies to health plans entered into, executed, issued, amended, delivered, or renewed on or after that date.