

SENATE BILL 1205

By Briggs

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 56 and Title 71, relative to 340B entities.

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) A health insurance issuer, managed health insurance issuer as defined in § 56-32-128(a), pharmacy benefits manager, or other third-party payer shall not:

(1) Reimburse a 340B entity for pharmacy-dispensed drugs at a rate lower than the rate paid for the same drug by national drug code number to pharmacies that are not 340B entities;

(2) Assess a fee, chargeback, or adjustment upon a 340B entity that is not equally assessed on non-340B entities; or

(3) Exclude 340B entities from its network of participating pharmacies based on criteria that is not applied to non-340B entities.

(b) With respect to a patient eligible to receive drugs subject to an agreement under 42 U.S.C. § 256b, a pharmacy benefits manager, or third party that makes payment for those drugs, shall not discriminate against a 340B entity in a manner that prevents or interferes with the patient's choice to receive those drugs from the 340B entity.

(c) Notwithstanding § 56-7-1005, this section does not apply to:

(1) The TennCare program administered under the Medical Assistance Act of 1968, compiled in title 71, chapter 5, part 1, or any successor Medicaid program;

(2) The CoverKids Act of 2006, compiled in title 71, chapter 3, part 11, or any successor program; or

(3) The prescription drug program described in chapter 57 of this title, or any successor program.

(d) As used in this section:

(1) "340B entity" means a covered entity participating in the federal 340B drug discount program, as defined in section 340B of the "Public Health Service Act", 42 U.S.C. § 256b, including the entity's pharmacy or pharmacies, or any pharmacy or pharmacies under contract with the 340B covered entity to dispense drugs on behalf of the 340B covered entity; and

(2) "National drug code number" means the unique national drug code number that identifies a specific approved drug, its manufacturer, and its package presentation.

SECTION 2. This act takes effect October 1, 2021, the public welfare requiring it, and applies to health plans entered into, executed, issued, amended, delivered, or renewed on or after that date.