

HOUSE BILL 1274

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By: **Delegate Kipke**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Prescription Drugs – Pharmacy Benefits Managers and Purchasers – Federal**
3 **340B Program**

4 FOR the purpose of establishing requirements and prohibitions on pharmacy benefits
5 managers and purchasers related to the federal 340B Program, including
6 requirements related to coverage and reimbursement for drugs purchased under the
7 Program; and generally relating to prescription drugs, purchasers, and pharmacy
8 benefits managers.

9 BY adding to

10 Article – Insurance

11 Section 15–1611.2

12 Annotated Code of Maryland

13 (2017 Replacement Volume and 2021 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 That the Laws of Maryland read as follows:

16 **Article – Insurance**

17 **15–1611.2.**

18 **(A) IN THIS SECTION, “340B PROGRAM” MEANS THE DRUG PRICING**
19 **PROGRAM ESTABLISHED UNDER § 602 OF THE FEDERAL VETERANS HEALTH CARE**
20 **ACT OF 1992.**

21 **(B) BEFORE ALLOWING A BENEFICIARY TO USE A MAIL–ORDER PHARMACY**
22 **THAT PARTICIPATES IN THE 340B PROGRAM, A PHARMACY BENEFITS MANAGER OR**
23 **A PURCHASER SHALL OBTAIN A SIGNED WAIVER FROM THE BENEFICIARY STATING**
24 **THAT THE BENEFICIARY IS NOT REQUIRED TO USE THE MAIL–ORDER PHARMACY.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (C) A PHARMACY BENEFITS MANAGER OR A PURCHASER SHALL:

2 (1) MAKE FORMULARY AND COVERAGE DECISIONS FOR A PHARMACY
3 OR PHARMACIST THAT PARTICIPATES IN THE 340B PROGRAM BASED ON THE
4 NORMAL COURSE OF BUSINESS OF THE PHARMACY BENEFITS MANAGER OR
5 PURCHASER; AND

6 (2) ALLOW A BENEFICIARY TO USE ANY PHARMACY OR PHARMACIST
7 THAT THE BENEFICIARY CHOOSES, WITHOUT REGARD TO WHETHER THE PHARMACY
8 OR PHARMACIST PARTICIPATES IN 340B PROGRAM.

9 (D) A PHARMACY BENEFITS MANAGER OR A PURCHASER MAY NOT:

10 (1) TRANSFER 340B PROGRAM SAVINGS FROM A PHARMACY OR
11 PHARMACIST THAT PARTICIPATES IN THE 340B PROGRAM TO A PHARMACY
12 BENEFITS MANAGER OR PURCHASER;

13 (2) OFFER LOWER REIMBURSEMENT FOR A PRESCRIPTION DRUG
14 PURCHASED UNDER THE 340B PROGRAM THAN THE REIMBURSEMENT IT OFFERS
15 FOR THE SAME PRESCRIPTION DRUG IF IT IS NOT PURCHASED UNDER THE 340B
16 PROGRAM;

17 (3) REFUSE TO COVER PRESCRIPTION DRUGS PURCHASED UNDER
18 THE 340B PROGRAM;

19 (4) REFUSE TO ALLOW PHARMACIES OR PHARMACISTS THAT
20 PARTICIPATE IN THE 340B PROGRAM TO PARTICIPATE IN THE PHARMACY BENEFITS
21 MANAGER'S PURCHASER'S NETWORK;

22 (5) CHARGE MORE THAN FAIR MARKET VALUE OR SEEK PROFIT
23 SHARING IN EXCHANGE FOR COVERAGE OF SERVICES FOR A PHARMACY OR
24 PHARMACIST THAT PARTICIPATES IN THE 340B PROGRAM;

25 (6) REQUIRE, AS A CONDITION OF COVERAGE, THAT A BENEFICIARY
26 USE A SPECIFIED MAIL-ORDER PHARMACY OR PHARMACIST THAT PARTICIPATES IN
27 THE 340B PROGRAM OR OTHERWISE COERCE A BENEFICIARY INTO USING A
28 SPECIFIC MAIL-ORDER PHARMACY OR PHARMACIST THAT PARTICIPATES IN THE
29 340B PROGRAM;

30 (7) IMPOSE DIFFERENT CONTRACT TERMS ON PHARMACIES OR
31 PHARMACISTS THAT PARTICIPATE IN A PHARMACY BENEFITS MANAGER'S OR

1 PURCHASER'S NETWORK BASED ON WHETHER A PHARMACY OR PHARMACIST
2 PARTICIPATES IN THE 340B PROGRAM;

3 (8) REQUIRE A PHARMACY OR PHARMACIST TO REVERSE, RESUBMIT,
4 OR CLARIFY A 340B PROGRAM CLAIM AFTER THE INITIAL ADJUDICATION, UNLESS
5 THE ACTIONS ARE IN THE NORMAL COURSE OF BUSINESS OF THE PHARMACY
6 BENEFITS MANAGER OR PURCHASER AND ARE NOT RELATED TO WHETHER THE
7 PHARMACY OR PHARMACIST PARTICIPATES IN THE 340B PROGRAM;

8 (9) REQUIRE A BILLING MODIFIER TO INDICATE THAT THE CLAIM FOR
9 A PRESCRIPTION DRUG IS A 340B PROGRAM CLAIM, UNLESS THE PRESCRIPTION
10 DRUG IS BEING BILLED TO THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR A
11 MANAGED CARE ORGANIZATION;

12 (10) MODIFY A BENEFICIARY'S COPAYMENT ON THE BASIS OF
13 WHETHER A PHARMACY OR PHARMACIST PARTICIPATES IN THE 340B PROGRAM;

14 (11) ESTABLISH OR SET NETWORK ADEQUACY REQUIREMENTS BASED
15 ON WHETHER A PHARMACY OR PHARMACIST PARTICIPATES IN THE 340B PROGRAM;
16 OR

17 (12) PROHIBIT AN ENTITY AUTHORIZED TO PARTICIPATE IN THE 340B
18 PROGRAM OR A PHARMACY OR PHARMACIST UNDER CONTRACT WITH AN ENTITY
19 AUTHORIZED TO PARTICIPATE IN THE 340B PROGRAM FROM PARTICIPATING IN
20 THE PHARMACY BENEFITS MANAGER'S OR PURCHASER'S NETWORK ON THE BASIS
21 OF THE ENTITY'S PARTICIPATION IN THE 340B PROGRAM.

22 (E) A PHARMACY BENEFITS MANAGER OR PURCHASER MAY NOT BASE A
23 FORMULARY OR PRESCRIPTION DRUG COVERAGE DECISIONS ON:

24 (1) THE PRICE OF THE PRESCRIPTION DRUG UNDER THE 340B
25 PROGRAM; OR

26 (2) WHETHER THE DISPENSING PHARMACY OR PHARMACIST
27 PARTICIPATES IN THE 340B PROGRAM.

28 (F) A 340B PROGRAM CLAIM PROCESSED BY A PHARMACY OR PHARMACIST
29 THAT PARTICIPATES IN THE 340B PROGRAM IS FINAL AT THE POINT OF
30 ADJUDICATION.

31 (G) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO CARRY OUT
32 THIS SECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2022.