

**SENATE BILL No. 128**

By Committee on Public Health and Welfare

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1 AN ACT concerning insurance; relating to pharmacy benefit managers;  
2 prohibiting disparate treatment of certain pharmacies and  
3 pharmaceutical services providers participating in the federal 340B  
4 drug pricing program.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) As used in this section:

8 (1) "340B covered entity" means an entity participating in the federal  
9 340B drug pricing program authorized by 42 U.S.C. § 256b, including  
10 such entity's pharmacy or pharmacies, or any pharmacy or pharmacies  
11 contracted for the purpose of dispensing drugs purchased through such  
12 program.

13 (2) "Covered drug" means the same as defined in 42 U.S.C. § 256b(b)  
14 (2) as in effect on July 1, 2021.

15 (3) "Covered person" means the same as defined in K.S.A. 2020  
16 Supp. 40-3822, and amendments thereto.

17 (4) "PBM affiliate" means a pharmacy, pharmacist or pharmacy  
18 technician that directly or indirectly through one or more intermediaries  
19 owns or controls, is owned or controlled by or is under common ownership  
20 or control with a pharmacy benefits manager.

21 (5) "Pharmacy benefits manager" or "PBM" means the same as  
22 defined in K.S.A. 2020 Supp. 40-3822, and amendments thereto.

23 (b) (1) A pharmacy benefits manager shall not disparately treat any  
24 pharmacy or pharmaceutical services provider by imposing or requiring  
25 terms of such pharmacy or pharmaceutical services provider that differ  
26 from those imposed or required of other pharmacies or pharmaceutical  
27 services providers based solely on such pharmacy's or pharmaceutical  
28 services provider's eligibility or designation as a 340B covered entity.

29 (2) Disparate terms include, but are not limited to:

30 (A) The exclusion of 340B-eligible or 340B covered entities from  
31 provider networks;

32 (B) reimbursing 340B-eligible or 340B covered entities less than the  
33 amount that the prescription drug coverage reimburses a PBM affiliate for  
34 providing the same pharmacist services; and

35 (C) assessing any fee, chargeback, participation requirement or other  
36 adjustment upon a 340B covered entity solely on the basis that the 340B

1 covered entity participates in the federal 340B drug pricing program.

2 (c) A PBM shall not discriminate against a 340B covered entity in a  
3 manner that prevents or interferes with a covered person's choice to  
4 receive a covered drug from the 340B covered entity.

5 (d) A PBM shall not collect from or require a pharmacy or pharmacist  
6 to collect from a covered person any cost-share amount for a prescription  
7 drug at the point of sale that exceeds the lesser of:

8 (1) The contracted co-payment amount;

9 (2) the amount the covered person would pay for a prescription drug  
10 if such covered person did not have prescription drug coverage; or

11 (3) the contracted amount for the drug.

12 (e) The commissioner of insurance shall adopt all necessary rules and  
13 regulations to oversee, administer and enforce the provisions of this  
14 section, including penalties for non-compliance. Such rules and  
15 regulations shall be adopted not later than July 1, 2022.

16 (f) This section shall be a part of and supplemental to article 38 of  
17 chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

18 Sec. 2. This act shall take effect and be in force from and after its  
19 publication in the Kansas register.