

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 187,  
2 Page 49, Section 367.140, Line 26, by inserting after all of said section and line the following:

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4 "376.411. 1. For purposes of this section, the following terms mean:

5 (1) "Clinician-administered drug", any legend drug, as defined in section 338.330, that is  
6 administered by a health care provider who is authorized to administer the drug;

7 (2) "Health carrier", the same meaning given to the term in section 376.1350;

8 (3) "Participating provider", the same meaning given to the term in section 376.1350;

9 (4) "Pharmacy benefits manager", the same meaning given to the term in section 376.388.

10 2. A health carrier, a pharmacy benefits manager, or an agent or affiliate of such health  
11 carrier or pharmacy benefits manager shall not:

12 (1) Impose any penalty, impediment, differentiation, or limitation on a participating provider  
13 for providing medically necessary clinician-administered drugs regardless of whether the  
14 participating provider obtains such drugs from a provider that is in the network including, but not  
15 limited to, refusing to approve or pay or reimbursing less than the contracted payment amount;

16 (2) Impose any penalty, impediment, differentiation, or limitation on a covered person who  
17 is administered medically necessary clinician-administered drugs regardless of whether the  
18 participating provider obtains such drugs from a provider that is in the network including, but not  
19 limited to, limiting coverage or benefits; requiring an additional fee, higher co-payment, or higher  
20 coinsurance amount; or interfering with a patient's ability to obtain a clinician-administered drug  
21 from the patient's provider or pharmacy of choice by any means including, but not limited to,  
22 inducing, steering, or offering financial or other incentives; or

23 (3) Impose any penalty, impediment, differentiation, or limitation on any pharmacy,  
24 including any class B hospital pharmacy as defined in section 338.220, that is dispensing medically  
25 necessary clinician-administered drugs regardless of whether the participating provider obtains such  
26 drugs from a provider that is in the network including, but not limited to, requiring a pharmacy to  
27 dispense such drugs to a patient with the intention that the patient will transport the medication to a  
28 health care provider for administration.

29 3. The provisions of this section shall not apply if the clinician-administered drug is not  
30 otherwise covered by the health carrier or pharmacy benefits manager.

31 376.414. 1. For purposes of this section, the following terms mean:

32 (1) "340B drug", a drug that is:

33 (a) A covered outpatient drug as defined in Section 340B of the Public Health Service Act,  
34 42 U.S.C. Section 256b, enacted by Section 602 of the Veterans Health Care Act of 1992, Pub. L.  
35 102-585; and

36 (b) Purchased under an agreement entered into under 42 U.S.C. Section 256b;

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 (2) "Covered entity", the same meaning given to the term in Section 340B(a) (4) of the  
 2 Public Health Service Act, 42 U.S.C. Section 256b(a) (4);

3 (3) "Health carrier", the same meaning given to the term in section 376.1350;

4 (4) "Pharmacy", an entity licensed under chapter 338;

5 (5) "Pharmacy benefits manager", the same meaning given to the term in section 376.388;

6 2. A health carrier, a pharmacy benefits manager, or an agent or affiliate of such health  
 7 carrier or pharmacy benefits manager, not including a pharmaceutical manufacturer, shall not  
 8 discriminate against a covered entity or a pharmacy including, but not limited to, by doing any of  
 9 the following:

10 (1) Reimbursing a covered entity or pharmacy for a quantity of a 340B drug in an amount  
 11 less than it would pay to any other similarly situated pharmacy that is not a covered entity or a  
 12 pharmacy for such quantity of such drug on the basis that the entity or pharmacy is a covered entity  
 13 or pharmacy or that the entity or pharmacy dispenses 340B drugs;

14 (2) Imposing any terms or conditions on covered entities or pharmacies that differ from such  
 15 terms or conditions applied to other similarly situated pharmacies or entities that are not covered  
 16 entities on the basis that the entity or pharmacy is a covered entity or pharmacy or that the entity or  
 17 pharmacy dispenses 340B drugs including, but not limited to, terms or conditions with respect to  
 18 any of the following:

19 (a) Fees, chargebacks, clawbacks, adjustments, or other assessments;

20 (b) Professional dispensing fees;

21 (c) Restrictions or requirements regarding participation in standard or preferred pharmacy  
 22 networks;

23 (d) Requirements relating to the frequency or scope of audits or to inventory management  
 24 systems using generally accepted accounting principles; and

25 (e) Any other restrictions, conditions, practices, or policies that, as specified by the director  
 26 of the department of commerce and insurance, interfere with the ability of a covered entity to  
 27 maximize the value of discounts provided under 42 U.S.C. Section 256b;

28 (3) Interfering with an individual's choice to receive a 340B drug from a covered entity or  
 29 pharmacy, whether in person or via direct delivery, mail, or other form of shipment, by any means  
 30 including, but not limited to, modifying a patient's payment limitations or cost-sharing obligations  
 31 on the basis of participation, in whole or in part, in the 340B drug pricing program;

32 (4) Discriminating in reimbursement to a covered entity or pharmacy based on the  
 33 determination or indication a drug is a 340B drug;

34 (5) Requiring a covered entity or pharmacy to identify, either directly or through a third  
 35 party, a 340B drug sooner than forty-five days after the point of sale of the 340B drug;

36 (6) Refusing to contract with a covered entity or pharmacy for reasons other than those that  
 37 apply equally to entities that are not covered entities or similarly situated pharmacies, or on the basis  
 38 that:

39 (a) The entity is a covered entity; or

40 (b) The entity or pharmacy is described in any of subparagraphs (A) to (O) of 42 U.S.C.  
 41 Section 235b(a) (4);

42 (7) Denying the covered entity the ability to purchase drugs at 340B program pricing by  
 43 substituting a rebate discount;

44 (8) Refusing to cover drugs purchased under the 340B drug pricing program; or

45 (9) Requiring a covered entity or pharmacy to reverse, resubmit, or clarify a 340B-drug  
 46 pricing claim after the initial adjudication unless these actions are in the normal course of pharmacy  
 47 business and not related to 340B drug pricing, except as required by federal law.

48 3. The director of the department of commerce and insurance shall impose a civil penalty on  
 49 any health carrier, pharmacy benefits manager, or agent or affiliate of such health carrier or

1 pharmacy benefits manager that violates the requirements of this section. Such penalty shall not  
2 exceed five thousand dollars per violation per day.

3 4. The director of the department of commerce and insurance shall promulgate rules to  
4 implement the provisions of this section. Any rule or portion of a rule, as that term is defined in  
5 section 536.010, that is created under the authority delegated in this section shall become effective  
6 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
7 section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested  
8 with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to  
9 disapprove or annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
10 authority and any rule proposed or adopted after August 28, 2023, shall be invalid and void."; and  
11

12 Further amend said bill by amending the title, enacting clause, and intersectional references  
13 accordingly.