

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

Offered By

1 AMEND House Committee Substitute for House Bill No. 442, Page 1, Section A, Line 2, by  
2 inserting after said section and line the following:

3  
4 "376.414. 1. For purposes of this section, the following terms mean:

5 (1) "340B drug", a drug that is:

6 (a) A covered outpatient drug as defined in Section 340B of the Public Health Service Act,  
7 42 U.S.C. Section 256b, enacted by Section 602 of the Veterans Health Care Act of 1992, Pub. L.  
8 102-585; and

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

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

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

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

14 (5) "Specified pharmacy", a pharmacy licensed under chapter 338 with which a covered  
15 entity has contracted to dispense 340B drugs on behalf of the covered entity regardless of whether  
16 the 340B drugs are distributed in person or through the mail.

17 2. A health carrier or pharmacy benefits manager shall not discriminate against a covered  
18 entity or a specified pharmacy by doing any of the following:

19 (1) Reimbursing a covered entity or specified pharmacy for a quantity of a 340B drug in an  
20 amount less than such health carrier or pharmacy benefits manager would pay to any other similarly  
21 situated pharmacy that is not a covered entity or a specified pharmacy for such quantity of such drug  
22 on the basis that the entity or pharmacy is a covered entity or specified pharmacy or that the entity  
23 or pharmacy dispenses 340B drugs;

24 (2) Imposing any terms or conditions on covered entities or specified pharmacies that differ  
25 from such terms or conditions applied to other similarly situated pharmacies that are not covered  
26 entities or specified pharmacies on the basis that the entity or pharmacy is a covered entity or  
27 specified pharmacy or that the entity or pharmacy dispenses 340B drugs including, but not limited  
28 to, terms or conditions with respect to any of the following:

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

30 (b) Professional dispensing fees;

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1           (c) Restrictions or requirements regarding participation in standard or preferred pharmacy  
2 networks;

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

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

8           (3) Interfering with an individual's choice to receive a 340B drug from a covered entity or  
9 specified pharmacy, whether in person or via direct delivery, mail, or other form of shipment; or

10           (4) Refusing to contract with a covered entity or specified pharmacy for reasons other than  
11 those that apply equally to entities or pharmacies that are not covered entities or specified  
12 pharmacies, or on the basis that:

13           (a) The entity or pharmacy is a covered entity or a specified pharmacy; or

14           (b) The entity or pharmacy is described in any of subparagraphs (A) to (O) of 42 U.S.C.  
15 Section 256b(a)(4).

16           3. The director of the department of commerce and insurance shall impose a civil penalty on  
17 any pharmacy benefits manager that violates the requirements of this section. Such penalty shall not  
18 exceed five thousand dollars per violation per day.

19           4. The director of the department of commerce and insurance shall promulgate rules to  
20 implement the provisions of this section. Any rule or portion of a rule, as that term is defined in  
21 section 536.010, that is created under the authority delegated in this section shall become effective  
22 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
23 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested  
24 with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to  
25 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
26 authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void."; and

27  
28 Further amend said bill by amending the title, enacting clause, and intersectional references  
29 accordingly.