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H.B. 276
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. John and Holmes

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CORRECTED VERSION*

SUMMARY

- Prohibits a manufacturer, repackager, or third-party logistics provider of dangerous drugs from denying, prohibiting, restricting, discriminating against, or limiting the acquisition of drugs under the 340B Drug Pricing Program by a grantee participating in that program.
- Prohibits a manufacturer, repackager, or third-party logistics provider of dangerous drugs from requiring a 340B grantee to submit claims or utilization data as a condition for acquiring certain drugs.
- Makes a violation of these provisions an unfair and deceptive insurance act or practice in the business of insurance and authorizes the Superintendent of Insurance to take actions to enforce compliance with the bill's provisions.
- Specifies that the bill's provisions are not to be construed as to conflict with or be less restrictive than applicable federal or state laws and regulations.

DETAILED ANALYSIS

Acquisition of drugs by 340B grantees

The bill prohibits a manufacturer, repackager, or third-party logistics provider of dangerous drugs from taking certain actions related to the acquisition of certain drugs by a 340B grantee. Under the bill, 340B grantees are a subset of 340B covered entities as defined in the federal 340B Drug Pricing Program statute.

A 340B covered entity is an entity that under federal law is authorized to participate in the 340B Drug Pricing Program. It includes certain categories of hospitals and nonhospital

* This version of the analysis clarifies that the bill's provisions apply to "340B grantees" and not all 340B covered entities.

providers that are eligible based on receiving federal funding and that provide care to the medically underserved. Covered entities include:

A. Federally qualified health center look-alikes;

B. Federally qualified health centers;

C. Title X family planning clinics;

D. HIV early intervention services grantees;

E. State-operated AIDS drug assistance programs;

F. Black lung clinics;

G. Hemophilia treatment centers;

H. Native Hawaiian health centers;

I. Tribal and urban Indian clinics;

J. Ryan White CARE Act for HIV/AIDS services grantees;

K. Sexually transmitted disease and tuberculosis clinics;

L. Disproportionate share hospitals, children's or cancer hospitals, critical access hospitals, and rural referral centers.[1]

The bill's provisions apply only to 340B grantees, which are defined as entities described in (A) to (K) of the federal 340B Program statute (listed above) and that are active under the Health Resources and Services Administration covered entity daily report.[2] The bill does not apply to hospital providers listed under (L) above.

Under the bill, a manufacturer, repackager, or third-party logistics provider of dangerous drugs may not deny, prohibit, restrict, discriminate against, or otherwise limit the acquisition or delivery of a drug included in the 340B Drug Pricing Program (referred to in the bill as a "340B drug") by or to a 340B grantee, unless the purchase or delivery of the drug is prohibited by the U.S. Department of Health and Human Services (HHS). Similarly, the bill prohibits an entity described above from requiring a 340B grantee to submit any claims or utilization data as a condition for the acquisition or delivery of a 340B drug by a 340B grantee, unless the claim or utilization data sharing is required by HHS.[3]

Enforcement

The bill includes a violation of the above-mentioned provisions as an unfair or deceptive insurance act or practice.[4] Generally, the Superintendent of Insurance may impose any or all of the following sanctions:

[1] 42 United States Code 256b(a)(4).

[2] R.C. 3902.72(A)(2).

[3] R.C. 3902.72(B)(1) and (2).

[4] R.C. 3902.72(C); R.C. 3901.19 to 3901.26, not in the bill.

- Suspension or revocation of the person's license to engage in the business of insurance;
- Prohibition on an insurance company or insurance agency employing the person or permitting the person to serve the company or agency in any capacity for a period of time;
- Return of any payments received by the person as a result of the violation;
- Fees for attorneys and other costs of any investigation into the violations committed by the person.

Additionally, the Superintendent may impose a civil penalty of up to $3,500 or $10,000, depending on the offense. Current law also grants a private right of action for the consumer against the alleged violator.[5] Instead, the bill specifies that if a manufacturer, repackager, or third-party logistics provider of dangerous drugs violates the bill's provisions, the Superintendent may initiate administrative proceedings in accordance with existing law, and may assess a civil penalty of $50,000 for each violation up to $10 million annually.[6]

The bill specifies that each package of drugs determined to be a violation of the bill's prohibitions constitutes a separate violation. In addition to the enforcement mechanisms described above, the bill permits the Superintendent to refer complaints to the State Board of Pharmacy for the Board to consider imposing additional sanctions as permitted by existing law. The Superintendent may adopt rules or delegate rulemaking authority to the State Board of Pharmacy to implement the bill's requirements.[7]

The bill specifies that its provisions are not to be construed to conflict with or be less restrictive than applicable federal law or regulations, or existing state law or regulations.[8]

HISTORY

Action	Date
Introduced	05-14-25

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[5] R.C.3901.22, not in the bill.

[6] R.C. 3902.72(C).

[7] R.C. 3902.72(C) and (D).

[8] R.C. 3902.72(E).