

**First Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 25-0361.02 Brita Darling x2241

**SENATE BILL 25-071**

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**SENATE SPONSORSHIP**

**Michaelson Jenet and Rich, Hinrichsen**

**HOUSE SPONSORSHIP**

**Martinez and Taggart,**

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**Senate Committees**  
Health & Human Services

**House Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING CERTAIN PRACTICES BY PERSONS PARTICIPATING IN THE**  
102             **SUPPLY CHAIN OF DRUGS PURCHASED UNDER THE FEDERAL 340B**  
103             **DRUG PRICING PROGRAM.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Under the federal 340B drug pricing program (340B program), a covered entity, including certain hospitals, programs, and federally qualified health centers (covered entity), that serves patients with low income receives discounted outpatient drugs (340B drugs) from manufacturers that participate in the federal medicaid and medicare

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

programs.

Unless the receipt of 340B drugs is prohibited by the federal department of health and human services, the bill prohibits a manufacturer, wholesaler, third-party logistics provider, or repackager in this state, or an agent, contractor, or affiliate of those entities, including an entity that collects or processes health information, from directly or indirectly denying, restricting, prohibiting, discriminating against, or otherwise limiting the acquisition of a 340B drug by, or delivery of a 340B drug to, a covered entity, a pharmacy contracted with a covered entity, or a location otherwise authorized by a covered entity to receive and dispense 340B drugs.

The bill also prohibits a manufacturer from directly or indirectly requiring a covered entity, a pharmacy contracted with a covered entity, or any other location authorized to receive 340B drugs by a covered entity to submit any health information, claims or utilization data, or other specified data that does not relate to a claim submitted to certain federal health care programs, unless the data is voluntarily furnished or required to be furnished under federal law.

A violation of the prohibitions in the bill is an unfair or deceptive trade practice under the "Colorado Consumer Protection Act" (act), and the violator is subject to the enforcement provisions and penalties contained in that act. The attorney general may investigate and enforce the provisions of the bill, as well as a business harmed by a violation of the provisions of the bill. In addition, a person regulated by the state board of pharmacy (pharmacy board) that violates the provisions of the bill may be subject to discipline by the pharmacy board against the person's license, certification, or registration, as well as other penalties.

The bill requires a covered entity that is a hospital to annually post on its public-facing website information concerning the annual, estimated, aggregate financial benefit to the hospital covered entity resulting from its ability to acquire pharmaceuticals at a discount through the 340B program and a description of how the hospital covered entity uses savings from participation in the 340B program.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 6-1-105, **add** (1)(iiii)

3 as follows:

4 **6-1-105. Unfair or deceptive trade practices - definitions.**

5 (1) A person engages in a deceptive trade practice when, in the course of  
6 the person's business, vocation, or occupation, the person:

1 (iii) VIOLATES ARTICLE 29 OF THIS TITLE 6.

2 **SECTION 2.** In Colorado Revised Statutes, **add** article 29 to title  
3 6 as follows:

4 **ARTICLE 29**

5 **Colorado 340B Contract Pharmacy Protection Act**

6 **6-29-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 29 IS THE  
7 "COLORADO 340B CONTRACT PHARMACY PROTECTION ACT".

8 **6-29-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY  
9 FINDS AND DETERMINES THAT:

10 (a) THE 340B DRUG PRICING PROGRAM REQUIRES DRUG  
11 MANUFACTURERS TO PROVIDE DRUG DISCOUNTS ON IDENTIFIED  
12 OUTPATIENT DRUGS TO 340B COVERED ENTITIES AS A CONDITION OF  
13 MEDICAID AND MEDICARE PART B COVERING THOSE DRUGS;

14 (b) CONGRESS CREATED THE 340B PROGRAM IN 1992, STATING  
15 THAT THE PROGRAM'S BENEFITS "ENABLE [COVERED] ENTITIES TO STRETCH  
16 SCARCE FEDERAL RESOURCES AS FAR AS POSSIBLE, REACHING MORE  
17 ELIGIBLE PATIENTS AND PROVIDING MORE COMPREHENSIVE SERVICES."  
18 (H.R. REP. NO.102-384 (II), AT 12 (1992)).

19 (c) THE 340B PROGRAM SUPPORTS COLORADO'S MEDICALLY  
20 VULNERABLE AND UNDERSERVED POPULATIONS BY PROVIDING  
21 ADDITIONAL RESOURCES TO 340B COVERED ENTITIES AND ALLOWING  
22 THESE ENTITIES TO DETERMINE THE MOST EFFECTIVE USE OF THESE  
23 RESOURCES;

24 (d) THE 340B PROGRAM IS A CRITICAL COMPONENT OF  
25 COLORADO'S SAFETY NET INFRASTRUCTURE;

26 (e) COLORADO HAS SIXTY-EIGHT HOSPITALS STATEWIDE THAT  
27 PARTICIPATE IN THE 340B PROGRAM, WITH NEARLY NINETY PERCENT OF

1 THESE HOSPITALS OPERATING UNDER UNSUSTAINABLE LONG-TERM  
2 MARGINS;

3 (f) ADDITIONALLY, COLORADO HAS TWENTY FEDERALLY  
4 QUALIFIED HEALTH CENTERS, OR FQHCs, ALL OF WHICH PARTICIPATE IN  
5 THE 340B PROGRAM AND SIXTY-FIVE PERCENT OF WHICH CURRENTLY  
6 OPERATE WITH NEGATIVE MARGINS;

7 (g) COLORADO HOSPITALS PARTICIPATING IN THE 340B PROGRAM  
8 UTILIZE PROGRAM BENEFITS TO ADDRESS THEIR COMMUNITIES' UNIQUE  
9 NEEDS, WHICH INCLUDE PROVIDING DIRECT PRESCRIPTION DRUG  
10 DISCOUNTS, SUBSIDIZING UNCOMPENSATED CHARITY CARE AND MEDICAID  
11 UNDERPAYMENTS TO REMAIN FINANCIALLY OPERATIONAL, SUPPORTING  
12 OPIOID USE DISORDER TREATMENT, FUNDING MOBILE HEALTH-CARE AND  
13 IMMUNIZATION CLINICS, AND PAYING FOR CHEMOTHERAPY AND INFUSION  
14 CENTERS;

15 (h) COLORADO'S FQHCs ARE THE PRIMARY CARE MEDICAL HOME  
16 FOR ONE IN SEVEN COLORADANS, WITH EIGHTY-NINE PERCENT OF FQHCs'  
17 PATIENTS IN 2023 LIVING WITH FAMILY INCOMES BELOW TWO HUNDRED  
18 PERCENT OF THE FEDERAL POVERTY GUIDELINE AND TWENTY-THREE  
19 PERCENT WERE UNINSURED;

20 (i) COLORADO'S FQHCs UTILIZE 340B PROGRAM BENEFITS TO  
21 ADDRESS THEIR COMMUNITIES' UNIQUE NEEDS, WHICH INCLUDE REDUCED  
22 DRUG PRICES FOR PATIENTS, PROVIDER RECRUITMENT AND RETENTION,  
23 AND EXPANSION OF ORAL HEALTH AND BEHAVIORAL HEALTH SERVICES  
24 THAT THE FQHCs WOULD OTHERWISE NOT BE ABLE TO OFFER;

25 (j) FURTHER, COLORADO'S FQHCs EXPERIENCED AN ESTIMATED  
26 LOSS OF FOUR MILLION THREE HUNDRED DOLLARS IN 340B PROGRAM  
27 SAVINGS IN THE LAST TWO YEARS;

1           (k) CONVERSELY, IN 2023, SIXTEEN OF THE LARGEST  
2 PHARMACEUTICAL COMPANIES REPORTED SIX HUNDRED EIGHTY-FOUR  
3 BILLION DOLLARS IN EARNINGS IN THEIR ANNUAL FINANCIAL REPORTS, A  
4 FIGURE THAT WAS HIGHER THAN THE GROSS DOMESTIC PRODUCT OF  
5 EIGHTY-EIGHT PERCENT OF THE COUNTRIES IN THE WORLD;

6           (l) IN ADDITION, THE EIGHT LARGEST PHARMACEUTICAL  
7 COMPANIES PAID A COMBINED TWO BILLION DOLLARS IN FEDERAL TAXES  
8 ON TWO HUNDRED FOURTEEN BILLION DOLLARS OF DOMESTIC REVENUE IN  
9 2022, ACCORDING TO THEIR 10-K ANNUAL FINANCIAL REPORTS;

10           (m) IN 2022, COLORADO HOSPITALS PROVIDED TWO BILLION ONE  
11 HUNDRED MILLION DOLLARS OF COMMUNITY BENEFIT;

12           (n) STARTING IN 2020, PHARMACEUTICAL MANUFACTURERS BEGAN  
13 TO UNLAWFULLY PLACE RESTRICTIONS ON 340B COVERED ENTITIES USING  
14 CONTRACT PHARMACIES TO DISPENSE DRUGS TO PATIENTS, UNILATERALLY  
15 LIMITING THE 340B PROGRAM'S BENEFITS; AND

16           (o) IN A LETTER DATED JULY 28, 2023, FROM WILLIAM TONG,  
17 ATTORNEY GENERAL OF CONNECTICUT, TO THE UNITED STATES SENATE  
18 340B WORKING GROUP, AND SIGNED BY TWENTY-TWO OTHER BIPARTISAN  
19 ATTORNEYS GENERAL, THE ATTORNEYS GENERAL DECLARED THAT  
20 "OUTPATIENT PHARMACIES ARE A KEY MECHANISM FOR THE DELIVERY OF  
21 LIFE-SAVING DRUGS TO ELIGIBLE PATIENTS, INCLUDING THOSE WHO HAVE  
22 LIMITED ACCESS TO TRANSPORTATION, LIVE IN REMOTE OR RURAL AREAS,  
23 OR ARE CONFINED TO THEIR HOMES AND RELY ON MAIL-ORDER  
24 PHARMACIES."

25           (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT THIS  
26 ARTICLE 29 PROHIBITING PHARMACEUTICAL MANUFACTURERS FROM  
27 IMPOSING LIMITATIONS OR PLACING RESTRICTIVE CONDITIONS ON 340B

1 COVERED ENTITIES IS NECESSARY TO PROTECT COLORADO'S VULNERABLE  
2 PATIENTS AND SAFETY NET PROVIDERS AND TO ENSURE THAT  
3 MUCH-NEEDED FINANCIAL RESOURCES GENERATED BY THE 340B PROGRAM  
4 REMAIN IN COLORADO FOR THE BENEFIT OF THE PUBLIC.

5 **6-29-103. Definitions.** AS USED IN THIS ARTICLE 29, UNLESS THE  
6 CONTEXT OTHERWISE REQUIRES:

7 (1) "340B COVERED ENTITY" OR "COVERED ENTITY" HAS THE  
8 MEANING SET FORTH IN SECTION 340B (a)(4) OF THE FEDERAL "PUBLIC  
9 HEALTH SERVICE ACT", 42 U.S.C. SEC. 256b (a)(4).

10 (2) "340B DRUG" MEANS A DRUG THAT:

11 (a) IS A COVERED OUTPATIENT DRUG WITHIN THE MEANING SET  
12 FORTH IN 42 U.S.C. SEC. 256b;

13 (b) HAS BEEN SUBJECT TO ANY OFFER FOR REDUCED PRICES BY A  
14 MANUFACTURER PURSUANT TO 42 U.S.C. SEC. 256b (a)(1); AND

15 (c) IS PURCHASED BY A COVERED ENTITY. AS USED IN THIS  
16 SUBSECTION (2)(c), A DRUG IS CONSIDERED "PURCHASED" IF IT WOULD  
17 HAVE BEEN PURCHASED BUT FOR THE RESTRICTION OR LIMITATION  
18 DESCRIBED IN SECTION 6-29-105.

19 (3) "340B DRUG PRICING PROGRAM" OR "340B PROGRAM" MEANS  
20 THE PROGRAM DESCRIBED IN 42 U.S.C. SEC. 256b (a)(1).

21 (4) "BOARD" MEANS THE STATE BOARD OF PHARMACY CREATED IN  
22 SECTION 12-280-104.

23 (5) "FEDERAL HEALTH CARE PROGRAM" HAS THE MEANING SET  
24 FORTH IN SECTION 42 U.S.C. SEC. 1320a-7b (f).

25 (6) "HEALTH INFORMATION" MEANS INFORMATION, INCLUDING  
26 DEMOGRAPHIC INFORMATION COLLECTED FROM AN INDIVIDUAL OR A  
27 GROUP OF INDIVIDUALS THAT:

1 (a) IS CREATED OR RECEIVED BY A HEALTH-CARE PROVIDER,  
2 PHARMACY, HEALTH BENEFIT PLAN, EMPLOYER, OR HEALTH-CARE  
3 CLEARINGHOUSE; AND

4 (b) RELATES TO THE PAST, PRESENT, OR FUTURE PHYSICAL OR  
5 MENTAL HEALTH OR CONDITION OF AN INDIVIDUAL, THE PROVISION OF  
6 HEALTH CARE TO AN INDIVIDUAL, OR THE PAST, PRESENT, OR FUTURE  
7 PAYMENT FOR THE PROVISION OF HEALTH CARE TO AN INDIVIDUAL.

8 (7) "MANUFACTURER" HAS THE MEANING SET FORTH IN SECTION  
9 12-280-103 (27).

10 (8) "PACKAGE" HAS THE MEANING SET FORTH IN 21 U.S.C. SEC.  
11 360eee (11)(A).

12 (9) "PHARMACY" HAS THE MEANING SET FORTH IN SECTION  
13 12-280-103 (43).

14 (10) "REPACKAGER" HAS THE MEANING SET FORTH IN SECTION  
15 12-280-103 (46).

16 (11) "THIRD-PARTY LOGISTICS PROVIDER" HAS THE MEANING SET  
17 FORTH IN SECTION 12-280-103 (52.5).

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19 **6-29-104. Applicability.** THIS ARTICLE 29 APPLIES TO A  
20 MANUFACTURER, == THIRD-PARTY LOGISTICS PROVIDER, OR REPACKAGER  
21 OF A MANUFACTURER'S DRUGS DOING BUSINESS IN THIS STATE AND  
22 ENGAGED IN THE PRODUCTION, MANUFACTURE, DISTRIBUTION, OR SALE OF  
23 A 340B DRUG IN THIS STATE.

24 **6-29-105. Acquisition of 340B drugs - prohibited acts -**  
25 **enforcement - penalties - nonpreemption - data exclusions.**

26 (1) **Prohibited acts.** ON AND AFTER THE EFFECTIVE DATE OF THIS  
27 ARTICLE 29:

1 (a) UNLESS THE RECEIPT OF THE 340B DRUGS IS PROHIBITED BY  
2 THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES, A  
3 MANUFACTURER, THIRD-PARTY LOGISTICS PROVIDER, OR REPACKAGER,  
4 OR AN AGENT, CONTRACTOR, OR AFFILIATE OF A MANUFACTURER,   
5 THIRD-PARTY LOGISTICS PROVIDER, OR REPACKAGER, INCLUDING AN  
6 ENTITY THAT COLLECTS OR PROCESSES HEALTH INFORMATION, SHALL NOT,  
7 DIRECTLY OR INDIRECTLY, DENY, RESTRICT, PROHIBIT, DISCRIMINATE  
8 AGAINST, OR OTHERWISE LIMIT THE ACQUISITION OF A 340B DRUG BY, OR  
9 DELIVERY OF A 340B DRUG TO, A 340B COVERED ENTITY, A PHARMACY  
10 CONTRACTED WITH A 340B COVERED ENTITY, OR A LOCATION OTHERWISE  
11 AUTHORIZED BY A 340B COVERED ENTITY TO RECEIVE AND DISPENSE 340B  
12 DRUGS; AND

13 (b) A MANUFACTURER SHALL NOT DIRECTLY OR INDIRECTLY  
14 REQUIRE, INCLUDING AS A CONDITION, A 340B COVERED ENTITY, A  
15 PHARMACY CONTRACTED WITH A 340B COVERED ENTITY, OR ANY OTHER  
16 LOCATION AUTHORIZED TO RECEIVE 340B DRUGS BY A 340B COVERED  
17 ENTITY TO SUBMIT ANY HEALTH INFORMATION, CLAIMS OR UTILIZATION  
18 DATA, PURCHASING DATA, PAYMENT DATA, OR OTHER DATA THAT DOES  
19 NOT RELATE TO A CLAIM SUBMITTED TO A FEDERAL HEALTH CARE  
20 PROGRAM, UNLESS SUCH DATA IS VOLUNTARILY FURNISHED BY SUCH  
21 COVERED ENTITY OR OTHERWISE REQUIRED TO BE FURNISHED UNDER  
22 APPLICABLE FEDERAL LAW.

23 (2) **Enforcement - penalties.** (a) THE ATTORNEY GENERAL MAY  
24 INVESTIGATE A COMPLAINT CONCERNING A VIOLATION OF THIS ARTICLE  
25 29. A PERSON THAT VIOLATES THIS ARTICLE 29 RISKS THE PUBLIC'S  
26 HEALTH AND ENGAGES IN AN UNFAIR OR DECEPTIVE TRADE PRACTICE  
27 PURSUANT TO SECTION 6-1-105 (1)(iii) AND IS SUBJECT TO THE

1 ENFORCEMENT PROVISIONS, CIVIL PENALTIES, AND DAMAGES SET FORTH  
2 IN ARTICLE 1 OF THIS TITLE 6.

3 (b) EACH PACKAGE OF A 340B DRUG THAT CONSTITUTES A  
4 PROHIBITED ACT UNDER THIS ARTICLE 29 CONSTITUTES A SEPARATE  
5 VIOLATION OF SUBSECTION (1) OF THIS SECTION.

6 (c) LIMITED DISTRIBUTION OF A DRUG REQUIRED UNDER 21 U.S.C.  
7 SEC. 355-1 DOES NOT CONSTITUTE A VIOLATION OF THIS ARTICLE 29.

8 (d) A PERSON REGULATED BY THE STATE BOARD OF PHARMACY  
9 CREATED IN SECTION 12-280-104 MAY BE SUBJECT TO DISCIPLINE  
10 PURSUANT TO SECTION 12-280-108 (1)(c), (1)(d), OR (1)(i) FOR VIOLATING  
11 THIS ARTICLE 29.

12 (3) **Nonpreemption.** NOTHING IN THIS ARTICLE 29 SHALL BE  
13 CONSTRUED OR APPLIED TO BE LESS RESTRICTIVE THAN ANY FEDERAL LAW  
14 APPLYING TO PERSONS REGULATED BY THIS SECTION. NOTHING IN THIS  
15 SECTION SHALL BE CONSTRUED OR APPLIED TO BE IN CONFLICT WITH ANY  
16 OF THE FOLLOWING:

17 (a) APPLICABLE FEDERAL LAW AND RELATED REGULATIONS; OR

18 (b) OTHER LAWS OF THIS STATE, IF THE LAWS ARE COMPATIBLE  
19 WITH APPLICABLE FEDERAL LAW.

20 (4) **Data exclusions.** SUBSECTION (1) OF THIS SECTION DOES NOT  
21 PROHIBIT A MANUFACTURER FROM REQUIRING HEALTH INFORMATION OR  
22 OTHER DATA THAT A COVERED ENTITY IS REQUIRED TO FURNISH TO THE  
23 MANUFACTURER UNDER APPLICABLE FEDERAL LAW, INCLUDING DATA  
24 RELATING TO AN AUDIT IN ACCORDANCE WITH PROCEDURES ESTABLISHED  
25 BY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER  
26 42 U.S.C. SEC. 256b (a)(5)(C).

27 **SECTION 3.** In Colorado Revised Statutes, **add** 25-3-132 as

1 follows:

2 **25-3-132. 340B drug pricing program transparency -**  
3 **definitions.** (1) AS USED IN THIS SECTION:

4 (a) "340B DRUG PRICING PROGRAM" OR "340B PROGRAM" MEANS  
5 THE PROGRAM DESCRIBED IN 42 U.S.C. SEC. 256b (a)(1).

6 (b) "HOSPITAL COVERED ENTITY" MEANS A HOSPITAL LICENSED OR  
7 CERTIFIED BY THE DEPARTMENT PURSUANT TO THE DEPARTMENT'S  
8 AUTHORITY UNDER SECTION 25-1.5-103 (1)(a) AND THAT IS A "COVERED  
9 ENTITY" AS DEFINED IN 42 U.S.C. SEC. 256b (a)(4).

10 (2) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION,  
11 EACH HOSPITAL COVERED ENTITY THAT IS A REPORTING HOSPITAL, AS  
12 DEFINED IN SECTION 25.5-1-701, SHALL INCLUDE THE FOLLOWING  
13 INFORMATION IN THE ANNUAL REPORT SUBMITTED PURSUANT TO SECTION  
14 25.5-1-703 (3):

15 (a) THE ANNUAL, REPORTED, AGGREGATE FINANCIAL BENEFIT TO  
16 THE HOSPITAL COVERED ENTITY RESULTING FROM ITS ABILITY TO ACQUIRE  
17 PHARMACEUTICALS AT A DISCOUNT THROUGH THE 340B DRUG PRICING  
18 PROGRAM, USING A STANDARDIZED METHODOLOGY DEVELOPED AND  
19 PUBLISHED PUBLICLY BY A STATEWIDE ASSOCIATION OF HOSPITALS; AND

20 (b) A DESCRIPTION OF HOW THE HOSPITAL COVERED ENTITY USES  
21 SAVINGS FROM PARTICIPATION IN THE 340B PROGRAM.

22 (3) NOTHING IN THIS SECTION REQUIRES THE PUBLIC DISCLOSURE  
23 OF RECORDS THAT ARE PUBLIC RECORDS UNDER THE "COLORADO OPEN  
24 RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, BUT THAT ARE  
25 EXEMPTED FROM DISCLOSURE UNDER THAT ACT.

26 **SECTION 4. Severability.** If any provision of this act or the  
27 application thereof to any person or circumstance is held invalid, such

1     invalidity does not affect other provisions or applications of the act that  
2     can be given effect without the invalid provision or application, and to  
3     this end the provisions of this act are declared to be severable.

4             **SECTION 5. Act subject to petition - effective date.** This act  
5     takes effect at 12:01 a.m. on the day following the expiration of the  
6     ninety-day period after final adjournment of the general assembly; except  
7     that, if a referendum petition is filed pursuant to section 1 (3) of article V  
8     of the state constitution against this act or an item, section, or part of this  
9     act within such period, then the act, item, section, or part will not take  
10    effect unless approved by the people at the general election to be held in  
11    November 2026 and, in such case, will take effect on the date of the  
12    official declaration of the vote thereon by the governor.