



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

SB 25-071: PROHIBIT RESTRICTIONS ON 340B DRUGS

Prime Sponsors:

Sen. Michaelson Jenet; Rich
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Fiscal note status: This fiscal note reflects the introduced bill.

Summary Information

Overview. The bill prohibits manufacturers from imposing restrictions on 340B Drug Pricing Program facilities and requires covered hospitals to publish certain information.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- Minimal State Workload
- State Revenue
- Local Government

Appropriations. No appropriation is required.

**Table 1
State Fiscal Impacts**

Type of Impact	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	\$0	\$0
State Expenditures	\$0	\$0
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

Summary of Legislation

The bill prohibits pharmaceutical manufacturers and other related entities from imposing limitations or restrictions on covered hospitals, contract pharmacies, federally qualified health centers, or other facilities participating in the federal 340B Drug Pricing Program. Additionally, manufacturers may not require covered entities or pharmacies to submit health information unless it is directly related to a claim under a federal health care program. Lastly, covered hospitals are required to annually publish their total financial benefit from participating in the 340B program and how these savings are utilized.

The bill makes noncompliance with these provisions a deceptive trade practice. Individuals regulated by the State Board of Pharmacy who violate these provisions may also face disciplinary action.

Background

The 340B Drug Pricing Program is a federal program that requires drug manufacturers participating in Medicaid to provide outpatient drugs to covered entities at a discount. To participate in the 340B program, covered entities must register and comply with all program requirements administered by the federal Health Resources & Services Administration. In Colorado, an estimated 68 hospitals and 20 federally qualified health centers participate in the 340B program.

State Revenue

Starting in FY 2025-26, the bill may increase state revenue from civil penalties and court filing fees by a minimal amount.

Civil Penalties

Under the Colorado Consumer Protection Act, a person committing a deceptive trade practice may be subject to a civil penalty of up to \$20,000 for each violation. Additional penalties may be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

Filing Fees

The bill may increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

State Expenditures

Beginning in FY 2025-26, the bill may increase workload in several state agencies, as described below.

Department of Public Health and Environment

Workload in the Department of Public Health and Environment may increase if hospitals fail to publish certain information and the department investigates complaints about noncompliance. This workload is expected to be minimal and no change in appropriations is required.

Department of Regulatory Agencies

The bill minimally increases workload in the Department of Regulatory Agencies to conduct outreach to individuals regulated by the State Board of Pharmacy. This workload is expected to be minimal and no change in appropriations is required.

Department of Law

Workload in the Department of Law will minimally increase to the extent that deceptive trade practice complaints are filed. The department will review complaints under the bill and prioritize investigations as necessary within the overall number of deceptive trade practice complaints and available resources.

Judicial Department

The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that pharmaceutical manufacturers and covered hospitals will abide by the law and that any violation of the legislation will result in minimal number of new cases. The fiscal note assumes that this can be accomplished within existing resources and that no change in appropriations is required.

Local Government

Similar to the state, to the extent district attorneys receive deceptive trade practice complaints related to the new deceptive trade practice under the bill, workload will increase to investigate complaints and seek relief when appropriate. It is assumed most such cases will be handled at the state level by the Attorney General.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Health Care Policy and Financing

Law

Human Services

Public Health and Environment

Judicial

Regulatory Agencies