LEGISLATURE OF THE STATE OF IDAHO

Sixty-eighth Legislature First Regular Session - 2025

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 385

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO PRESCRIPTION DRUGS; AMENDING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1740, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING CERTAIN PROHIBITED ACTIONS BY PHARMACEUTICAL MANUFACTURERS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 17, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1740, Idaho Code, and to read as follows:

54-1740. AFFORDABLE ACCESS TO PRESCRIPTION DRUGS. (1) As used in this section:

(a) "340B drug" means a covered outpatient drug under 42 U.S.C. 256b(b) that has been subject to an offer for reduced prices by a pharmaceutical manufacturer under 42 U.S.C. 256b(a)(1).

(b) "Contract pharmacy" means a pharmacy that is registered with the 340B office of pharmacy affairs information system, or a successor system, under contract with a covered entity, and authorized under such contract to receive and dispense 340B drugs on behalf of the covered entity.

(c) "Covered entity" means a covered entity as defined in 42 U.S.C. 256b(a)(4) participating or authorized to participate in the federal 340B drug pricing program pursuant to 42 U.S.C. 256b.

(d) "Pharmaceutical manufacturer" means an entity, agent, or affiliate of such an entity that manufactures drugs, biologics, or other pharmaceutical products.

(e) "Pharmacy" means any place located within this state where drugs are dispensed and pharmacy services are provided and any place outside of this state where drugs are dispensed and pharmacy services are provided to residents who are physically located in this state.

(2) A pharmaceutical manufacturer shall not deny, restrict, prohibit, or otherwise interfere with, either directly or indirectly, the acquisition of a 340B drug by or delivery of a 340B drug to a contract pharmacy on behalf of a covered entity.

(3) A pharmaceutical manufacturer shall not interfere with or otherwise restrict a pharmacy contract between a covered entity and any contract pharmacy.

(4) A pharmaceutical manufacturer shall not, either directly or indirectly, require a covered entity or contract pharmacy to submit, validate, certify, or provide any claims, utilization, purchasing, or other data as a condition for allowing the acquisition of a 340B drug by or delivery of a 340B drug to a covered entity or contract pharmacy. This prohibition does not include pharmaceutical manufacturer audits that pertain directly to a

covered entity's compliance with 42 U.S.C. 256b(a)(5)(A)(i) or 42 U.S.C. 256b(a)(5)(B) conducted in accordance with procedures established by the secretary of the department of health and human services.

(5) Nothing in this section shall be construed or applied to be less restrictive than applicable federal law for a person or entity regulated by this section. Nothing in this section shall be construed or applied to be in conflict with applicable federal law and related regulations or other laws of this state if the state law is compatible with applicable federal law. Limited distribution of a drug required under 21 U.S.C. 355-1 shall not be construed as a violation of this section.

(6) The provisions of this section are hereby declared to be severable and if any provision of this section or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this section.

(7) If the 340B drug pricing program described in 42 CFR 10 is eliminated at the federal level, then the provisions of this section shall be null, void, and of no force and effect.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2025.