

## BILL SUMMARY

1<sup>st</sup> Session of the 60<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>HB2048</b>
<b>Version:</b>	<b>FA2</b>
<b>Request Number:</b>	<b>13352</b>
<b>Author:</b>	<b>Rep. Stinson</b>
<b>Date:</b>	<b>3/24/2025</b>
<b>Impact:</b>	<b>AG Office: \$410,000</b>

### Research Analysis

The second floor substitute for HB 2048 creates the "340B Nondiscrimination Act," which provides that a health insurance issuer, pharmacy benefits manager, other third-party payor, or its agent must reimburse a 340B entity for 340B drugs at a rate lower paid to non-340B entities for the same drug or give a lower reimbursement on the basis that it is a 340B drug. The measure also prohibits imposing any terms or conditions on any 340B entity that differ from those imposed on non-340B entities on the basis that the entity participates in the federal 340B drug discount program. The measure prohibits requiring a 340B entity to reverse, resubmit, or clarify a claim after the initial adjudication unless these are in the course of normal pharmacy business. The measure prohibits discriminating against a 340B entity in a manner that prevents or interferes with a patient's choice to receive such drugs from a 340B entity, including adding any other provisions in a contract. The measure also prohibits requiring or compelling the submission of ingredient costs or pricing data pertaining to 340B drugs and prohibits excluding any 340B entity or refusing to contract with them for reasons other than those that apply equally to non-340B entities.

A manufacturer must not also deny, restrict, or otherwise interfere with the acquisition or delivery of 340B drugs unless such receipt is prohibited by the United State Department of Health and Human Services. They must not also interfere with a pharmacy contracted with a 340B entity. The pharmacy benefits manager or an agent thereof cannot require a billing modifier for 340B pricing claim unless it's being billed to the Oklahoma Medicaid Program and they cannot modify a patient copayment on the basis that the provider participates in 340B drug pricing. The measure also amends other prohibitions for pharmacy benefit managers fitting within the provisions of this measure. The Attorney General may make rules regulations interpreting provisions of this act and will be responsible for this act. The Attorney General may impose civil fines of between \$100 and \$10,000 for each violation of provisions of the act. Nothing in this measure will be less restrictive than federal law and will not be in conflict with federal law or other state laws.

### CHANGES IN FLOOR SUB VERSION FROM COMMITTEE SUBSTITUTE:

The second floor amendment to HB 2048 removes a distributor from being included in the provisions of Section 4. The floor amendment requires a 340B entity to contract with any willing pharmacy upon mutually agreeable terms within a 15 mile radius of the 340B entity's location. Nothing in this will be construed to limit the number of pharmacies that a 340B entity will be allowed to contract with. The second floor amendment also authorizes the Insurance Department to establish rules and regulations interpreting this act. The Department will be responsible for enforcing this act specifically with respect to health insurers and may levy civil fines between \$100 and \$1,000. This doesn't prevent the Insurance Department from seeking assistance from the Attorney General in act enforcement or limits the Insurance Department's ability to regulate the licensing of Pharmacy Benefit Managers. The floor amendment authorizes the Attorney

General to establish rules and regulations interpreting the provisions of this act and concerning any person or entity who is not a health insurer subject to Insurance Department enforcement. The Attorney General may impose civil fines between \$100 and \$1,000 for each violation. Nothing in this will prohibit information sharing for an investigation between the Attorney General's office or the Insurance Department. This information will be kept confidential unless it is used during an enforcement action authorized by this act, the disclosing agency has authorized the disclosure, or the information is publicly available.

Prepared By: Suzie Nahach, House Research Staff

### **Fiscal Analysis**

In its current form, HB 2048 establishes the 340B Nondiscrimination Act, which prohibits insurers and pharmacy benefit managers from engaging in discriminatory practices regarding the reimbursement of 30B drugs to 30B entities.

The Oklahoma Insurance Department is responsible for enforcing the provisions of this act with respect to health insurers, while the Attorney General's Office is tasked with enforcing its provisions for all other individuals and entities. Both the Insurance Department and the Attorney General's Office may establish rules and regulations interpreting the requirements of the act. Civil fines ranging from One Hundred Dollars (\$100) to Ten Thousand Dollars (\$10,000) may be imposed for each violation.

As the Insurance Department is a non-appropriated state agency, any costs incurred to enforce the provisions of the measure are expected to be absorbed within the Department's existing resources. However, according to officials from the Attorney General's Office, the implementation of the measure will require the hiring of one attorney, one analyst, and one paralegal. The estimated total cost for these additional personnel is Four Hundred Ten Thousand Dollars (\$410,000). Additional appropriations would be necessary to cover this cost, resulting in a total impact of \$410,000 on the state budget.

The second floor amendment does not change the fiscal impact of the measure.

Prepared By: Alexandra Ladner House Fiscal Staff

### **Other Considerations**

None.