
SUBSTITUTE SENATE BILL 5981

State of Washington

69th Legislature

2026 Regular Session

By Senate Health & Long-Term Care (originally sponsored by Senators Cleveland, Slatter, Harris, Bateman, Alvarado, Chapman, Dhingra, Frame, Hasegawa, Lias, Pedersen, Saldaña, and Valdez)

READ FIRST TIME 01/28/26.

1 AN ACT Relating to protecting patient access to discounted
2 medications and health care services through Washington's health care
3 safety net by preventing manufacturer limitations on the 340B drug
4 pricing program; amending RCW 43.71C.100; adding a new chapter to
5 Title 69 RCW; and prescribing penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that the federal
8 340B drug pricing program is essential for providing health care
9 access to low-income and uninsured populations. The 340B drug pricing
10 program requires drug manufacturers to offer discounts on outpatient
11 medications to eligible providers that serve these populations. They
12 include federally qualified health centers, Ryan White (HIV) clinics,
13 tribal and urban Indian health centers, critical access hospitals,
14 and other safety net hospitals that meet stringent federal criteria.

15 (2) Congress created the 340B drug pricing program in 1992,
16 stating that the program's benefits enable covered "entities to
17 stretch scarce federal resources as far as possible, reaching more
18 eligible patients and providing more comprehensive services." (H.R.
19 Rep. No. 102-384 (II), at 12 (1992)). The 340B drug pricing program
20 allows certain safety net providers to sustain underfunded services
21 and reinvest savings into essential community benefits, such as

1 financial assistance for low-income patients, no-cost wellness
2 visits, screenings, vaccinations, transportation to appointments,
3 health education classes, case management, medication adherence
4 services, and workforce development programs.

5 (3) The federal health resources and services administration
6 permits 340B covered entities to contract with pharmacies to enable
7 access to life-saving drugs and drugs that preserve quality of life
8 to eligible patients, including for those who otherwise have limited
9 access.

10 (4) The 340B drug pricing program and contract pharmacies are
11 crucial to Washington's safety net providers by ensuring patients can
12 access their prescribed medications, while providing additional
13 resources to 340B covered entities to serve vulnerable and
14 underserved populations.

15 (5) More than 20 other states have recognized the importance of
16 contract pharmacies to the 340B drug pricing program and have taken
17 action to prohibit drug manufacturers from imposing restrictions on
18 340B covered entities' ability to serve patients through contract
19 pharmacies.

20 (6) Federal courts, including the fifth and eighth circuit courts
21 of appeals, have upheld states' authority to legislate on the
22 distribution of 340B drugs through contract pharmacies.

23 (7) The current restrictions imposed by drug manufacturers not
24 only limit a patient's access to affordable medication but also
25 jeopardize the financial savings that safety net providers depend on
26 to reinvest in their operations, expand services, and support
27 underserved communities.

28 (8) The legislature, therefore, finds that prohibiting drug
29 manufacturers from imposing restrictions on 340B covered entities is
30 necessary to protect Washington's vulnerable patients, their access
31 to medications, and safety net providers' ability to serve their
32 patients.

33 NEW SECTION. **Sec. 2.** The definitions in this section apply
34 throughout this chapter unless the context clearly requires
35 otherwise.

36 (1) "340B drug" means a drug that has been subject to an offer
37 for reduced prices by a manufacturer under 42 U.S.C. Sec. 256b and is
38 purchased by a covered entity.

1 (2) "Covered entity" means an entity authorized to participate in
2 the federal 340B drug pricing program, as defined in 42 U.S.C. Sec.
3 256b(a)(4) as of the effective date of this section.

4 (3) "Manufacturer" means a person, corporation, or other entity
5 engaged in the manufacture of drugs or devices. It includes an agent,
6 contractor, or affiliate of a manufacturer.

7 (4) "Package" has the same meaning as in 21 U.S.C. Sec.
8 360eee(11)(A) as of the effective date of this section.

9 (5) "Pharmacy" has the same meaning as in RCW 18.64.011.

10 (6) "Third-party logistics provider" has the same meaning as in
11 21 U.S.C. Sec. 360eee(22) as of the effective date of this section.

12 NEW SECTION. **Sec. 3.** (1) A manufacturer or a distributor or
13 third-party logistics provider of a manufacturer's drugs may not,
14 directly or indirectly, deny, restrict, or prohibit the acquisition
15 of a 340B drug by, or delivery of a 340B drug to, a covered entity, a
16 pharmacy that is under contract with a covered entity to receive and
17 dispense a 340B drug on behalf of the covered entity, or any location
18 authorized by a covered entity to receive such 340B drug, unless
19 federal law prohibits receipt of the 340B drug.

20 (2) A manufacturer or a distributor or third-party logistics
21 provider of a manufacturer's drugs may not, directly or indirectly,
22 require a covered entity to submit any claims, utilization,
23 purchasing, or other data as a condition for allowing the acquisition
24 of a 340B drug by, or delivery of a 340B drug to, a covered entity, a
25 pharmacy that is under contract with a covered entity to receive and
26 dispense a 340B drug on behalf of the covered entity, or any location
27 authorized by a covered entity to receive such 340B drug, unless
28 federal law requires such data sharing.

29 NEW SECTION. **Sec. 4.** (1) In addition to any other remedy
30 provided by law, a covered entity may file a civil action against a
31 manufacturer, distributor, or third-party logistics provider for a
32 violation of this chapter. If a court finds that the manufacturer,
33 distributor, or third-party logistics provider violated this chapter,
34 the court may enjoin the violation and award a civil penalty of up to
35 \$5,000 per day for each violation, as well as reasonable attorneys'
36 fees and costs. Each package of 340B drugs subject to a prohibited
37 act under this chapter constitutes a separate violation.

1 (2) The attorney general may bring an action in the name of the
2 state, or as parens patriae on behalf of persons residing in the
3 state, to enforce this chapter. For actions brought by the attorney
4 general to enforce the provisions of this chapter, the legislature
5 finds that the practices covered by this chapter are matters vitally
6 affecting the public interest for the purpose of applying the
7 consumer protection act, chapter 19.86 RCW. For actions brought by
8 the attorney general to enforce this chapter, a violation of this
9 chapter is not reasonable in relation to the development and
10 preservation of business and is an unfair or deceptive act in trade
11 or commerce and an unfair method of competition for the purpose of
12 applying the consumer protection act, chapter 19.86 RCW.

13 (3) Nothing in this chapter is to be construed or applied to
14 conflict with federal law and related regulations, including 21
15 U.S.C. Sec. 355-1, or other laws of this state, if the state law is
16 compatible with applicable federal law.

17 NEW SECTION. **Sec. 5.** (1) Before April 1st of each year, a
18 covered entity shall report the following information to the
19 department concerning the covered entity's participation in the 340B
20 program for the previous calendar year:

21 (a) The following information for the covered entity:

22 (i) Name;

23 (ii) Service address;

24 (iii) 340B program identification number; and

25 (iv) Designation of entity type, as specified in 42 U.S.C. Sec.
26 256b(a)(4);

27 (b) The aggregate acquisition cost for all 340B drugs obtained
28 under the 340B program and dispensed or administered to patients;

29 (c) The aggregate payment amount received for all 340B drugs
30 obtained under the 340B program and dispensed or administered to
31 patients;

32 (d) The aggregate payment made to pharmacies that are under
33 contract with the covered entity to receive and dispense 340B drugs
34 on behalf of the covered entity;

35 (e) The number of claims for prescription drugs described in (c)
36 of this subsection;

37 (f) How the covered entity uses any savings from participating in
38 the 340B program, including the amount of savings used for the

1 provision of charity care, community benefits, or a similar program
2 of providing unreimbursed or subsidized health care;

3 (g) The aggregate payments made to any other entity that is not a
4 covered entity and is not a contract pharmacy as described in (d) of
5 this subsection for managing any aspect of the covered entity's 340B
6 program;

7 (h) The aggregate payment made for any other administering
8 expense for the 340B program;

9 (i) The aggregate number of prescription drugs dispensed or
10 administered to patients for which a payment was reported under (c)
11 of this subsection;

12 (j) The percentage of the covered entity's claims that were for
13 prescription drugs obtained under the 340B program; and

14 (k) The number and percentage of low-income patients of the
15 covered entity that were served by a sliding fee scale for a
16 prescription drug dispensed or administered under the 340B program.

17 (2) The information required to be reported under subsection (1)
18 of this section must be reported by payer type, including the
19 following:

20 (a) Commercial;

21 (b) Medicaid;

22 (c) Medicare; and

23 (d) Uninsured.

24 (3) The department shall prepare a template reporting form for
25 covered entities to use to fulfill the reporting requirements of this
26 section.

27 (4) The data submitted in the reports required under this section
28 is confidential and is not available for public inspection.

29 (5) The department may share the information received under this
30 section with the health care authority under a data-sharing
31 agreement.

32 (6) (a) Before November 15th of each year, the department shall
33 submit a report to the legislature that aggregates the data submitted
34 under this section.

35 (b) The department shall also make the report available on the
36 department's website.

37 (7) The department may issue a fine, in accordance with RCW
38 43.70.095, of \$1,000 per day for a covered entity that fails to
39 provide the information required by this section by the date
40 required.

1 (8) The department may adopt rules necessary to implement this
2 section.

3 **Sec. 6.** RCW 43.71C.100 and 2022 c 153 s 11 are each amended to
4 read as follows:

5 (1) The authority shall compile and analyze the data submitted by
6 health carriers, pharmacy benefit managers, manufacturers, and
7 pharmacy services administrative organizations pursuant to this
8 chapter and prepare an annual report for the public and the
9 legislature synthesizing the data to demonstrate the overall impact
10 that drug costs, rebates, and other discounts have on health care
11 premiums. The authority shall include all manufacturer data specific
12 to discounts provided as part of the federal 340B drug pricing
13 program, as established in 42 U.S.C. Sec. 256b.

14 (2) ((The)) Except for manufacturer data specific to discounts
15 provided as part of the federal 340B drug pricing program, the data
16 in the report must be aggregated and must not reveal information
17 specific to individual health carriers, pharmacy benefit managers,
18 pharmacy services administrative organizations, individual
19 prescription drugs, individual classes of prescription drugs,
20 individual manufacturers, or discount amounts paid in connection with
21 individual prescription drugs.

22 (3) Beginning January 1, 2021, and by each January 1st
23 thereafter, the authority must publish the report on its website.

24 (4) Except for the report, and as provided in subsection (5) of
25 this section, the authority shall keep confidential all data
26 submitted pursuant to RCW 43.71C.020 through 43.71C.080.

27 (5) For purposes of public policy, upon request of a legislator,
28 the authority must provide all data provided pursuant to RCW
29 43.71C.020 through 43.71C.080 and any analysis prepared by the
30 authority. Any information provided pursuant to this subsection must
31 be kept confidential within the legislature and may not be publicly
32 released.

33 (6) For the purpose of reviewing drug prices and conducting
34 affordability reviews, the prescription drug affordability board, as
35 established in chapter 70.405 RCW, and the health care cost
36 transparency board, established in chapter 70.390 RCW, may access all
37 data collected pursuant to RCW 43.71C.020 through 43.71C.080 and any
38 analysis prepared by the authority.

1 (7) ((The)) (a) Except as provided in (b) of this subsection, the
2 data collected pursuant to this chapter is not subject to public
3 disclosure under chapter 42.56 RCW. Any information provided pursuant
4 to this section must be kept confidential and may not be publicly
5 released. Recipients of data under subsection (6) of this section
6 shall:

7 ((~~(a)~~)) (i) Follow all rules adopted by the authority regarding
8 appropriate data use and protection; and

9 ((~~(b)~~)) (ii) Acknowledge that the recipient is responsible for
10 any liability arising from misuse of the data and that the recipient
11 does not have any conflicts under the ethics in public service act
12 that would prevent the recipient from accessing or using the data.

13 (b) Data submitted by manufacturers that is specific to discounts
14 provided as part of the federal 340B drug pricing program is not
15 confidential and may be publicly released.

16 NEW SECTION. **Sec. 7.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

20 NEW SECTION. **Sec. 8.** Sections 1 through 5 of this act
21 constitute a new chapter in Title 69 RCW.

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