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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5981

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State of Washington

69th Legislature

2026 Regular Session

By Senate Ways & Means (originally sponsored by Senators Cleveland, Slatter, Harris, Bateman, Alvarado, Chapman, Dhingra, Frame, Hasegawa, Liiias, Pedersen, Saldaña, and Valdez)

READ FIRST TIME 02/09/26.

1 AN ACT Relating to protecting the integrity of the 340B drug  
2 pricing program; amending RCW 43.71C.010, 43.71C.050, 43.71C.090, and  
3 43.71C.100; adding new sections to chapter 43.71C RCW; adding a new  
4 chapter to Title 69 RCW; and prescribing penalties.

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

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

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

1 visits, screenings, vaccinations, transportation to appointments,  
2 health education classes, case management, medication adherence  
3 services, and workforce development programs.

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

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

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

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

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

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

32 (9) The legislature also finds that there is a vested state and  
33 public interest in providing transparency across the spectrum of 340B  
34 program participants to ensure the program is operating within the  
35 original intent set forth by congress.

36 (10) The legislature, therefore, finds that 340B program  
37 reporting capturing covered entities, contract pharmacies, and  
38 manufacturers is necessary to ensure the integrity of the program.

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

4        (1) "340B drug" means a drug that has been subject to an offer  
5 for reduced prices by a manufacturer under 42 U.S.C. Sec. 256b and is  
6 purchased by a covered entity.

7        (2) "Covered entity" means an entity authorized to participate in  
8 the federal 340B drug pricing program, as defined in 42 U.S.C. Sec.  
9 256b(a)(4) as of the effective date of this section.

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

13       (4) "Package" has the same meaning as in 21 U.S.C. Sec.  
14 360eee(11)(A) as of the effective date of this section.

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

16       (6) "Third-party logistics provider" has the same meaning as in  
17 21 U.S.C. Sec. 360eee(22) as of the effective date of this section.

18       NEW SECTION.    **Sec. 3.**    (1) A manufacturer or a third party acting  
19 on behalf of a manufacturer may not, directly or indirectly, deny,  
20 restrict, or prohibit the acquisition of a 340B drug by, or delivery  
21 of a 340B drug to, a covered entity, a pharmacy that is under  
22 contract with a covered entity to receive and dispense a 340B drug on  
23 behalf of the covered entity, or any location authorized by a covered  
24 entity to receive such 340B drug, unless federal law prohibits  
25 receipt of the 340B drug.

26       (2) A manufacturer or a third party acting on behalf of a  
27 manufacturer may not, directly or indirectly, require a covered  
28 entity to submit any claims, utilization, purchasing, or other data  
29 as a condition for allowing the acquisition of a 340B drug by, or  
30 delivery of a 340B drug to, a covered entity, a pharmacy that is  
31 under contract with a covered entity to receive and dispense a 340B  
32 drug on behalf of the covered entity, or any location authorized by a  
33 covered entity to receive such 340B drug, unless federal law requires  
34 such data sharing.

35       NEW SECTION.    **Sec. 4.**    (1) In addition to any other remedy  
36 provided by law, a covered entity may file a civil action against a  
37 manufacturer or a third party acting on behalf of a manufacturer for  
38 a violation of this chapter. If a court finds that the manufacturer

1 or third party acting on behalf of a manufacturer violated this  
2 chapter, the court may enjoin the violation and award a civil penalty  
3 of up to \$5,000 per day for each violation, as well as reasonable  
4 attorneys' fees and costs. Each package of 340B drugs subject to a  
5 prohibited act under this chapter constitutes a separate violation.

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

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

22 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.71C  
23 RCW to read as follows:

24 (1) Annually, on or before April 1st following the conclusion of  
25 the covered entity's fiscal year, a covered entity located in  
26 Washington that is a federally qualified health center as defined in  
27 42 U.S.C. Sec. 1396d(1)(2)(B) or a hospital defined in 42 U.S.C. Sec.  
28 256b(a)(4)(L) through (O) shall report the following information to  
29 the authority concerning the covered entity's participation in the  
30 340B program for the previous fiscal year:

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

32 (i) Name;

33 (ii) Service address;

34 (iii) 340B program identification number;

35 (iv) Designation of entity type, as specified in 42 U.S.C. Sec.  
36 256b(a)(4); and

37 (v) The national taxpayer identification number;

38 (b) The aggregate acquisition cost for all 340B drugs obtained  
39 under the 340B program and dispensed to applicable patients;

1 (c) The aggregate payment amount received for all 340B drugs  
2 obtained under the 340B program and dispensed to applicable patients;

3 (d) The aggregate acquisition cost for administered outpatient  
4 340B drugs obtained under the 340B program and administered to  
5 applicable patients;

6 (e) The total savings on the 340B administered outpatient drugs  
7 based on the calculation of the difference between the aggregate  
8 acquisition cost of 340B drugs and the aggregate price of the drugs  
9 if not purchased through the 340B program;

10 (f) The aggregate acquisition cost for 340B drugs, and payments  
11 made to pharmacies that are under contract with the covered entity to  
12 receive and dispense 340B drugs on behalf of the covered entity;

13 (g) The number of claims for prescription drugs described in (c)  
14 and (d) of this subsection;

15 (h) Using the most up-to-date and available data, how the covered  
16 entity uses any savings from participating in the 340B program  
17 including, but not limited to, the amount of savings used for the  
18 provision of charity care, community benefits, or a similar program  
19 of providing unreimbursed or subsidized health care;

20 (i) The aggregate payments made to any other entity that is not a  
21 covered entity and is not a contract pharmacy as described in (f) of  
22 this subsection for managing any aspect of the covered entity's 340B  
23 program;

24 (j) The aggregate payment made or expense for administering the  
25 340B program;

26 (k) The aggregate number of prescription drugs dispensed to  
27 patients for which a payment was reported under (c) of this  
28 subsection and the estimated number of prescription drugs  
29 administered to patients for which a payment was reported under (d)  
30 of this subsection;

31 (l) The percentage of the covered entity's pharmacy claims that  
32 were for prescription drugs obtained under the 340B program; and

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

36 (2) The information required to be reported under subsection (1)  
37 of this section must be reported by payer type, if the information is  
38 available to the covered entity, including the following:

39 (a) Commercial;

40 (b) Medicaid;

1 (c) Medicare; and

2 (d) Uninsured.

3 (3) The authority shall prepare a template reporting form for  
4 covered entities to use to fulfill the reporting requirements of this  
5 section.

6 (4) (a) The authority may issue a fine, in accordance with RCW  
7 43.71C.090, of \$1,000 per day for a covered entity that fails to  
8 provide the information required by this section by the date  
9 required.

10 (b) A covered entity must be afforded an opportunity to correct a  
11 violation of this section before a fine may be issued. If the covered  
12 entity provides the information required by this section within 30  
13 calendar days of receiving the written notice of a violation, then  
14 the authority shall not issue a penalty.

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.71C  
16 RCW to read as follows:

17 (1) For manufacturers and covered entities required to report  
18 340B data to the authority under section 5 of this act and RCW  
19 43.71C.050, the authority may establish a filing fee to support costs  
20 to administer the 340B data collection and reporting required by this  
21 chapter.

22 (2) The filing fee shall be set by the authority at a level  
23 necessary to cover the cost to the authority for collecting and  
24 reporting the 340B data. Manufacturers required to report data under  
25 RCW 43.71C.050 and covered entities required to report data under  
26 section 5 of this act shall pay the fee annually, in a form and  
27 manner determined by the authority.

28 (3) The filing fee for covered entities must be tiered based on  
29 the covered entity's gross operating revenue.

30 (4) The authority may adopt rules to implement this section.

31 **Sec. 7.** RCW 43.71C.010 and 2019 c 334 s 2 are each amended to  
32 read as follows:

33 The definitions in this section apply throughout this chapter  
34 unless the context clearly requires otherwise.

35 (1) "340B drug" means a drug that has been subject to an offer  
36 for reduced prices by a manufacturer under 42 U.S.C. Sec. 256b and is  
37 purchased by a covered entity.

38 (2) "Authority" means the health care authority.

1       ~~((+2))~~ (3) "Covered drug" means any prescription drug that:

2       (a) A covered manufacturer intends to introduce to the market at  
3 a wholesale acquisition cost of ~~((ten thousand dollars))~~ \$10,000 or  
4 more for a course of treatment lasting less than one month or a  
5 ~~((thirty))~~ 30-day supply, whichever period is longer; or

6       (b) Is currently on the market, is manufactured by a covered  
7 manufacturer, and has a wholesale acquisition cost of more than ~~((one~~  
8 ~~hundred dollars))~~ \$100 for a course of treatment lasting less than  
9 one month or a ~~((thirty))~~ 30-day supply, and, taking into account  
10 only price increases that take effect after July 28, 2019, the  
11 manufacturer increases the wholesale acquisition cost at least:

12       (i) Twenty percent, including the proposed increase and the  
13 cumulative increase over one calendar year prior to the date of the  
14 proposed increase; or

15       (ii) Fifty percent, including the proposed increase and the  
16 cumulative increase over three calendar years prior to the date of  
17 the proposed increase.

18       ~~((+3))~~ (4) "Covered entity" means an entity authorized to  
19 participate in the federal 340B drug pricing program, as defined in  
20 42 U.S.C. Sec. 256b(a)(4) as of the effective date of this section  
21 and is located in Washington.

22       (5) "Covered manufacturer" means a person, corporation, or other  
23 entity engaged in the manufacture of prescription drugs sold in or  
24 into Washington state. "Covered manufacturer" does not include a  
25 private label distributor or retail pharmacy that sells a drug under  
26 the retail pharmacy's store, or a prescription drug repackager.

27       ~~((+4))~~ (6) "Health care provider," "health plan," "health  
28 carrier," and "carrier" mean the same as in RCW 48.43.005.

29       ~~((+5))~~ (7) "Pharmacy benefit manager" means the same as in RCW  
30 ~~((19.340.010))~~ 48.200.020.

31       ~~((+6))~~ (8) "Pharmacy services administrative organization" means  
32 an entity that contracts with a pharmacy to act as the pharmacy's  
33 agent with respect to matters involving a pharmacy benefit manager,  
34 third-party payor, or other entities, including negotiating,  
35 executing, or administering contracts with the pharmacy benefit  
36 manager, third-party payor, or other entities and provides  
37 administrative services to pharmacies.

38       ~~((+7))~~ (9) "Prescription drug" means a drug regulated under  
39 chapter 69.41 or 69.50 RCW, including generic, brand name, specialty

1 drugs, and biological products that are prescribed for outpatient use  
2 and distributed in a retail setting.

3 ~~((8))~~ (10) "Qualifying price increase" means a price increase  
4 described in subsection ~~((2))~~ (3)(b) of this section.

5 ~~((9))~~ (11) "Wholesale acquisition cost" or "price" means, with  
6 respect to a prescription drug, the manufacturer's list price for the  
7 drug to wholesalers or direct purchasers in the United States,  
8 excluding any discounts, rebates, or reductions in price, for the  
9 most recent month for which the information is available, as reported  
10 in wholesale price guides or other publications of prescription drug  
11 pricing.

12 **Sec. 8.** RCW 43.71C.050 and 2019 c 334 s 6 are each amended to  
13 read as follows:

14 (1) Beginning October 1, 2019, a covered manufacturer must submit  
15 to the authority the following data for each covered drug:

16 (a) A description of the specific financial and nonfinancial  
17 factors used to make the decision to set or increase the wholesale  
18 acquisition cost of the drug. In the event of a price increase, a  
19 covered manufacturer must also submit the amount of the increase and  
20 an explanation of how these factors explain the increase in the  
21 wholesale acquisition cost of the drug;

22 (b) The patent expiration date of the drug if it is under patent;

23 (c) Whether the drug is a multiple source drug, an innovator  
24 multiple source drug, a noninnovator multiple source drug, or a  
25 single source drug;

26 (d) The itemized cost for production and sales, including the  
27 annual manufacturing costs, annual marketing and advertising costs,  
28 total research and development costs, total costs of clinical trials  
29 and regulation, and total cost for acquisition of the drug; and

30 (e) The total financial assistance given by the manufacturer  
31 through assistance programs, rebates, and coupons.

32 (2) For all qualifying price increases of existing drugs, a  
33 manufacturer must submit the year the drug was introduced to market  
34 and the wholesale acquisition cost of the drug at the time of  
35 introduction.

36 (3) If a manufacturer increases the price of an existing drug it  
37 has manufactured for the previous five years or more, it must submit  
38 a schedule of wholesale acquisition cost increases for the drug for  
39 the previous five years.

1 (4) If a manufacturer acquired the drug within the previous five  
2 years, it must submit:

3 (a) The wholesale acquisition cost of the drug at the time of  
4 acquisition and in the calendar year prior to acquisition; and

5 (b) The name of the company from which the drug was acquired, the  
6 date acquired, and the purchase price.

7 (5) Except as provided in subsection (6) of this section, a  
8 covered manufacturer must submit the information required by this  
9 section:

10 (a) At least (~~sixty~~) 60 days in advance of a qualifying price  
11 increase for a covered drug; and

12 (b) Within (~~thirty~~) 30 days of release of a new covered drug to  
13 the market.

14 (6) For any drug approved under section 505(j) of the federal  
15 food, drug, and cosmetic act, as it existed on July 28, 2019, or a  
16 biosimilar approved under section 351(k) of the federal public health  
17 service act, as it existed on July 28, 2019, if submitting data in  
18 accordance with subsection (5)(a) of this section is not possible  
19 (~~sixty~~) 60 days before the price increase, that submission must be  
20 made as soon as known but not later than the date of the price  
21 increase.

22 (7) Before April 1st of each year, a manufacturer shall report  
23 the following information concerning the manufacturer's participation  
24 in the federal 340B drug pricing program, as established in 42 U.S.C.  
25 Sec. 256b, for the previous calendar year in a manner and format  
26 prescribed by the authority:

27 (a) The number of units, by drug, of 340B drugs distributed to  
28 each covered entity and contract pharmacy in Washington;

29 (b) The aggregate discounts, by drug, provided to each covered  
30 entity and contract pharmacy on 340B drugs reported in (a) of this  
31 subsection; and

32 (c) The average 340B discount on each of the top 25 340B drugs  
33 dispensed in the state by each manufacturer, including the percentage  
34 of the discount imposed due to inflationary rebate, as described in  
35 42 U.S.C. Sec. 1396r-8(c)(2) (A) and (C), and the discount if it were  
36 not capped with a maximum rebate amount, as described in 42 U.S.C.  
37 Sec. 1396r-8(c)(2) (D).

38 (8) The information submitted pursuant to this section is not  
39 subject to public disclosure under chapter 42.56 RCW.

1       **Sec. 9.** RCW 43.71C.090 and 2019 c 334 s 11 are each amended to  
2 read as follows:

3       The authority may assess a fine of up to ~~((one thousand dollars))~~  
4 \$1,000 per day for failure to comply with the requirements of RCW  
5 43.71C.020 through 43.71C.080 and section 5 of this act. The  
6 assessment of a fine under this section is subject to review under  
7 the administrative procedure act, chapter 34.05 RCW. Fines collected  
8 under this section must be deposited in the medicaid fraud penalty  
9 account created in RCW 74.09.215.

10       **Sec. 10.** RCW 43.71C.100 and 2022 c 153 s 11 are each amended to  
11 read as follows:

12       (1) (a) The authority shall compile and analyze the data submitted  
13 by health carriers, pharmacy benefit managers, manufacturers, and  
14 pharmacy services administrative organizations pursuant to this  
15 chapter and prepare an annual report for the public and the  
16 legislature synthesizing the data to demonstrate the overall impact  
17 that drug costs, rebates, and other discounts have on health care  
18 premiums.

19       (b) For data related to the 340B drug pricing program, the annual  
20 report shall include:

21       (i) Data submitted under RCW 43.71C.050(7) aggregated to not  
22 reveal information from specific manufacturers;

23       (ii) Data submitted under section 5(1) (a), (h) through (j), and  
24 (m) of this act by covered entity; and

25       (iii) Data submitted pursuant to section 5(1) (b) through (g),  
26 (k), and (l) of this act aggregated by entity type, as specified in  
27 42 U.S.C. Sec. 256b(a) (4).

28       (2) ~~((The))~~ (a) Except as provided in (b) of this subsection, the  
29 data in the report must be aggregated and must not reveal information  
30 specific to individual health carriers, pharmacy benefit managers,  
31 pharmacy services administrative organizations, individual  
32 prescription drugs, individual classes of prescription drugs,  
33 individual manufacturers, or discount amounts paid in connection with  
34 individual prescription drugs.

35       (b) Data reported under section 5(1) (a), (h) through (j), and  
36 (m) of this act may be reported without further aggregation and may  
37 identify the manufacturer, covered entity, and contract pharmacy.

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

1 (4) Except for the report, data submitted under section 5(1) (a),  
2 (h) through (j), and (m) of this act, and as provided in subsection  
3 (5) of this section, the authority shall keep confidential all data  
4 submitted pursuant to ~~((RCW 43.71C.020 through 43.71C.080))~~ this  
5 chapter.

6 (5) For purposes of public policy, upon request of a Washington  
7 state legislator, the authority must provide all data provided  
8 pursuant to RCW 43.71C.020 through 43.71C.080, and section 5 of this  
9 act and any analysis prepared by the authority to the requesting  
10 legislator. Any information provided pursuant to this subsection is  
11 not subject to public disclosure under chapter 42.56 RCW and must be  
12 kept confidential within the legislature ~~((and may not be publicly~~  
13 ~~released))~~.

14 (6) For the purpose of reviewing drug prices and conducting  
15 affordability reviews, the prescription drug affordability board, as  
16 established in chapter 70.405 RCW, and the health care cost  
17 transparency board, established in chapter 70.390 RCW, may access all  
18 data collected pursuant to RCW 43.71C.020 through 43.71C.080 and any  
19 analysis prepared by the authority.

20 (7) ~~((The))~~ (a) Except as provided in (b) of this subsection, the  
21 data collected pursuant to this chapter is not subject to public  
22 disclosure under chapter 42.56 RCW. Any information provided pursuant  
23 to this section must be kept confidential and may not be publicly  
24 released. Recipients of data under subsection (6) of this section  
25 shall:

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

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

32 (b) Data submitted by covered entities under section 5(1) (a),  
33 (h) through (j), and (m) of this act is not confidential and may be  
34 publicly released.

35 NEW SECTION. Sec. 11. If any provision of this act or its  
36 application to any person or circumstance is held invalid, the  
37 remainder of the act or the application of the provision to other  
38 persons or circumstances is not affected.

1        NEW SECTION.    **Sec. 12.**    Sections 1 through 4 of this act  
2    constitute a new chapter in Title 69 RCW.

--- **END** ---