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**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 distributor or  
19 third-party logistics provider of a manufacturer's drugs may not,  
20 directly or indirectly, deny, restrict, or prohibit the acquisition  
21 of a 340B drug by, or delivery of a 340B drug to, a covered entity, a  
22 pharmacy that is under contract with a covered entity to receive and  
23 dispense a 340B drug on behalf of the covered entity, or any location  
24 authorized by a covered entity to receive such 340B drug, unless  
25 federal law prohibits receipt of the 340B drug.

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

1 distributor, or third-party logistics provider violated this chapter,  
2 the court may enjoin the violation and award a civil penalty of up to  
3 \$5,000 per day for each violation, as well as reasonable attorneys'  
4 fees and costs. Each package of 340B drugs subject to a prohibited  
5 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) Before April 1st of each year, a covered entity located in  
25 Washington that is a federally qualified health center as defined in  
26 42 U.S.C. Sec. 1396d(1)(2)(B) or a hospital defined in 42 U.S.C. Sec.  
27 256b(a)(4)(L) through (O) shall report the following information to  
28 the authority concerning the covered entity's participation in the  
29 340B program for the previous calendar year:

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

31 (i) Name;

32 (ii) Service address;

33 (iii) 340B program identification number;

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

36 (v) The national provider identification number;

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

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

4 (d) The aggregate acquisition cost for 340B drugs, and payments  
5 made to pharmacies that are under contract with the covered entity to  
6 receive and dispense 340B drugs on behalf of the covered entity;

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

9 (f) How the covered entity uses any savings from participating in  
10 the 340B program, including the amount of savings used for the  
11 provision of charity care, community benefits, or a similar program  
12 of providing unreimbursed or subsidized health care;

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

17 (h) The aggregate payment made or expense for administering the  
18 340B program;

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

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

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

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

30 (a) Commercial;

31 (b) Medicaid;

32 (c) Medicare; and

33 (d) Uninsured.

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

37 (4) The authority may issue a fine, in accordance with RCW  
38 43.71C.090, 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        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 43.71C  
2    RCW to read as follows:

3        (1) For manufacturers and covered entities required to report  
4    340B data to the authority under section 5 of this act and RCW  
5    43.71C.050, the authority may establish a filing fee to support costs  
6    to administer the 340B data collection and reporting required by this  
7    chapter.

8        (2) The filing fee shall be set by the authority at a level  
9    necessary to cover the cost to the authority for collecting and  
10   reporting the 340B data. Manufacturers and covered entities located  
11   in Washington shall pay the fee annually, in a form and manner  
12   determined by the authority.

13        (3) The authority may adopt rules to implement this section.

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

16        The definitions in this section apply throughout this chapter  
17   unless the context clearly requires otherwise.

18        (1) "340B drug" means a drug that has been subject to an offer  
19   for reduced prices by a manufacturer under 42 U.S.C. Sec. 256b and is  
20   purchased by a covered entity.

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

22        ~~((+2))~~ (3) "Covered drug" means any prescription drug that:

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

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

33        (i) Twenty percent, including the proposed increase and the  
34   cumulative increase over one calendar year prior to the date of the  
35   proposed increase; or

36        (ii) Fifty percent, including the proposed increase and the  
37   cumulative increase over three calendar years prior to the date of  
38   the proposed increase.

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

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

10       ~~((4))~~ (6) "Health care provider," "health plan," "health  
11 carrier," and "carrier" mean the same as in RCW 48.43.005.

12       ~~((5))~~ (7) "Pharmacy benefit manager" means the same as in RCW  
13 ~~((19.340.010))~~ 48.200.020.

14       ~~((6))~~ (8) "Pharmacy services administrative organization" means  
15 an entity that contracts with a pharmacy to act as the pharmacy's  
16 agent with respect to matters involving a pharmacy benefit manager,  
17 third-party payor, or other entities, including negotiating,  
18 executing, or administering contracts with the pharmacy benefit  
19 manager, third-party payor, or other entities and provides  
20 administrative services to pharmacies.

21       ~~((7))~~ (9) "Prescription drug" means a drug regulated under  
22 chapter 69.41 or 69.50 RCW, including generic, brand name, specialty  
23 drugs, and biological products that are prescribed for outpatient use  
24 and distributed in a retail setting.

25       ~~((8))~~ (10) "Qualifying price increase" means a price increase  
26 described in subsection ~~((2))~~ (3)(b) of this section.

27       ~~((9))~~ (11) "Wholesale acquisition cost" or "price" means, with  
28 respect to a prescription drug, the manufacturer's list price for the  
29 drug to wholesalers or direct purchasers in the United States,  
30 excluding any discounts, rebates, or reductions in price, for the  
31 most recent month for which the information is available, as reported  
32 in wholesale price guides or other publications of prescription drug  
33 pricing.

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

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

38        (a) A description of the specific financial and nonfinancial  
39 factors used to make the decision to set or increase the wholesale

1 acquisition cost of the drug. In the event of a price increase, a  
2 covered manufacturer must also submit the amount of the increase and  
3 an explanation of how these factors explain the increase in the  
4 wholesale acquisition cost of the drug;

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

6 (c) Whether the drug is a multiple source drug, an innovator  
7 multiple source drug, a noninnovator multiple source drug, or a  
8 single source drug;

9 (d) The itemized cost for production and sales, including the  
10 annual manufacturing costs, annual marketing and advertising costs,  
11 total research and development costs, total costs of clinical trials  
12 and regulation, and total cost for acquisition of the drug; and

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

15 (2) For all qualifying price increases of existing drugs, a  
16 manufacturer must submit the year the drug was introduced to market  
17 and the wholesale acquisition cost of the drug at the time of  
18 introduction.

19 (3) If a manufacturer increases the price of an existing drug it  
20 has manufactured for the previous five years or more, it must submit  
21 a schedule of wholesale acquisition cost increases for the drug for  
22 the previous five years.

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

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

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

29 (5) Except as provided in subsection (6) of this section, a  
30 covered manufacturer must submit the information required by this  
31 section:

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

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

36 (6) For any drug approved under section 505(j) of the federal  
37 food, drug, and cosmetic act, as it existed on July 28, 2019, or a  
38 biosimilar approved under section 351(k) of the federal public health  
39 service act, as it existed on July 28, 2019, if submitting data in  
40 accordance with subsection (5)(a) of this section is not possible

1 ((sixty)) 60 days before the price increase, that submission must be  
2 made as soon as known but not later than the date of the price  
3 increase.

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

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

11 (b) The aggregate discounts, by drug, provided to each covered  
12 entity and contract pharmacy on 340B drugs reported in (a) of this  
13 subsection.

14 (8) Except for information reported under subsection (7) of this  
15 section, the information submitted pursuant to this section is not  
16 subject to public disclosure under chapter 42.56 RCW.

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

19 The authority may assess a fine of up to ((one thousand dollars))  
20 \$1,000 per day for failure to comply with the requirements of RCW  
21 43.71C.020 through 43.71C.080 and section 5 of this act. The  
22 assessment of a fine under this section is subject to review under  
23 the administrative procedure act, chapter 34.05 RCW. Fines collected  
24 under this section must be deposited in the medicaid fraud penalty  
25 account created in RCW 74.09.215.

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

28 (1) The authority shall compile and analyze the data submitted by  
29 health carriers, pharmacy benefit managers, manufacturers, and  
30 pharmacy services administrative organizations pursuant to this  
31 chapter and prepare an annual report for the public and the  
32 legislature synthesizing the data to demonstrate the overall impact  
33 that drug costs, rebates, and other discounts have on health care  
34 premiums. The authority shall include all information provided by  
35 manufacturers under RCW 43.71C.050(7) and covered entities under  
36 section 5 of this act in the annual report.

37 (2) ((The)) (a) Except as provided in (b) of this subsection, the  
38 data in the report must be aggregated and must not reveal information

1 specific to individual health carriers, pharmacy benefit managers,  
2 pharmacy services administrative organizations, individual  
3 prescription drugs, individual classes of prescription drugs,  
4 individual manufacturers, or discount amounts paid in connection with  
5 individual prescription drugs.

6 (b) Data reported under RCW 43.71C.050(7) and section 5 of this  
7 act may be reported without further aggregation and may identify the  
8 manufacturer, covered entity, and contract pharmacy.

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

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

14 (5) For purposes of public policy, upon request of a legislator,  
15 the authority must provide all data provided pursuant to RCW  
16 43.71C.020 through 43.71C.080 and any analysis prepared by the  
17 authority. Any information provided pursuant to this subsection must  
18 be kept confidential within the legislature and may not be publicly  
19 released.

20 (6) For the purpose of reviewing drug prices and conducting  
21 affordability reviews, the prescription drug affordability board, as  
22 established in chapter 70.405 RCW, and the health care cost  
23 transparency board, established in chapter 70.390 RCW, may access all  
24 data collected pursuant to RCW 43.71C.020 through 43.71C.080 and any  
25 analysis prepared by the authority.

26 (7) ~~((The))~~ (a) Except as provided in (b) of this subsection, the  
27 data collected pursuant to this chapter is not subject to public  
28 disclosure under chapter 42.56 RCW. Any information provided pursuant  
29 to this section must be kept confidential and may not be publicly  
30 released. Recipients of data under subsection (6) of this section  
31 shall:

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

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

38 (b) Data submitted by manufacturers under RCW 43.71C.050(7) and  
39 covered entities under section 5 of this act is not confidential and  
40 may be publicly released.

1        NEW SECTION.    **Sec. 11.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

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

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