

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

SENATE BILL 589

5 By: Senator C. Penzo
6
7

For An Act To Be Entitled

8
9 AN ACT TO CREATE THE 340B PROGRAM TRANSPARENCY ACT;
10 TO REQUIRE TRANSPARENCY FROM CERTAIN 340B-COVERED
11 ENTITIES CONCERNING THE USE OF 340B PROGRAM SAVINGS;
12 TO REQUIRE CERTAIN 340B-COVERED ENTITIES TO ANNUALLY
13 REPORT THE UTILIZATION AND DISTRIBUTION OF 340B
14 PROGRAM SAVINGS TO ENSURE ACCOUNTABILITY AND
15 TRANSPARENCY; AND FOR OTHER PURPOSES.
16
17

Subtitle

18
19 TO CREATE THE 340B PROGRAM TRANSPARENCY
20 ACT; AND TO AMEND THE LAW CONCERNING
21 TRANSPARENCY AND ACCOUNTABILITY FOR
22 CERTAIN 340B-COVERED ENTITIES.
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code Title 20, Chapter 6, is amended to add an
27 additional subchapter to read as follows:

Subchapter 5 – 340B Program Transparency Act

20-6-501. Title.

30
31 This subchapter shall be known and may be cited as the "340B Program
32 Transparency Act".
33

20-6-502. Definitions.

As used in this subchapter:

35
36 (1) "340B program" means the federal drug discount program



1 established under Section 340B of the Public Health Service Act, 42 U.S.C. §
2 256b, as it existed on January 1, 2025, that requires a drug manufacturer to
3 provide discounted outpatient medications to a covered entity that serves a
4 significant number of low-income and uninsured patients;

5 (2) "340B savings" means the difference between the actual price
6 paid by a covered entity or its contract pharmacy under the 340B program for
7 a given drug or biological product and one (1) of the following acquisition
8 costs, applied in the order of priority stated below, using date-sensitive
9 and comparable data:

10 (A)(i) The actual acquisition cost the covered entity or
11 contract pharmacy has paid for the same drug or biological product when
12 dispensed to non-340B qualifying patients based on verifiable transaction
13 records from the same month as the 340B purchase.

14 (ii) If data from the same month is not available,
15 then data from the same calendar quarter shall be used;

16 (B) The actual acquisition cost for the same drug or
17 biological product as reflected in published acquisition data from the same
18 month, if available, or from the same calendar quarter if monthly data is not
19 available, and that is accessible to the covered entity or contract pharmacy
20 from a distributor or group purchasing organization, as long as the
21 distributor or group purchasing organization was utilized to acquire the drug
22 or biological product by the covered entity or contract pharmacy within the
23 same month or calendar quarter; or

24 (C)(i) If neither subdivision (2)(A) or subdivision (2)(B)
25 of this section is available for the specific product, the estimated
26 acquisition cost the covered entity or contract pharmacy would have paid for
27 the drug or biological product in the absence of participation in the 340B
28 program, ensuring to the extent possible that the estimation uses data from
29 the same month or, if not available, from the same calendar quarter.

30 (ii) A covered entity or contract pharmacy shall
31 rely on subdivision (2)(C) of this section only if neither subdivision (2)(A)
32 or subdivision (2)(B) of this section is feasible for that specific drug or
33 biological product;

34 (3) "Contract pharmacy" means a pharmacy that has executed a
35 contract with a covered entity to dispense 340B drugs on behalf of the
36 covered entity consistent with federal regulations and guidelines;

1 (4) "Covered entity" means a hospital or other healthcare
2 provider located in this state that participates in the 340B program as
3 defined by 42 U.S.C. § 256b, as it existed on January 1, 2025; and

4 (5)(A) "Medically underserved area" means an entire county that,
5 at any point during the reporting period, has an active medically underserved
6 area designation from the United States Health Resources and Services
7 Administration if the medically underserved area designation is for a single
8 county and has not been withdrawn or proposed for withdrawal.

9 (B) "Medically underserved area" does not include a
10 medically underserved area that is for a county subdivision, partial areas of
11 a county, a census tract, or other smaller geographic unit or that has been
12 withdrawn or proposed for withdrawal.

13
14 20-6-503. Annual 340B transparency report.

15 (a)(1) Each covered entity shall submit an annual 340B transparency
16 report to the Department of Health on or before March 31 of each year,
17 covering the previous calendar year.

18 (2) The department shall develop a standard reporting form
19 consistent with the requirements of this subchapter.

20 (b) At a minimum, a covered entity shall report:

21 (1) Aggregate 340B savings for the prior calendar year,
22 including without limitation:

23 (A) The total number of prescription, infusion, and
24 injection drug claims processed by the covered entity or its contract
25 pharmacies;

26 (B) The total number of 340B-eligible prescription,
27 infusion, and injection drug claims processed by the covered entity or its
28 contract pharmacies;

29 (C) An estimate of the total 340B savings realized by the
30 covered entity; and

31 (D) A description of the methodology used to calculate the
32 aggregate 340B savings;

33 (2) Utilization of 340B savings, including a detailed accounting
34 of how the 340B savings were allocated or reinvested, specifying:

35 (A)(i)(a) The aggregate amount directed toward offsetting
36 the cost of uncompensated care or charity care.

1 **(b) The amount reported under subdivision**
2 **(b)(2)(A)(i)(a) of this section shall reflect only the funds actually**
3 **disbursed or redeemed from the 340B savings, rather than merely allocated or**
4 **earmarked for future use.**

5 **(ii) However, for purposes of this calculation:**

6 **(a) Contractual discounts or adjustments**
7 **already applied by insurance companies or government healthcare programs**
8 **shall not be included;**

9 **(b) Charges for denied services or medical**
10 **supplies unrelated to the drug or biological product, or unrelated to the**
11 **administration of the drug or biological product, shall not be included; and**

12 **(c) Any other discounts, reductions,**
13 **incentives, or offsets that covered entity patients customarily receive in**
14 **the normal course of business shall not be included;**

15 **(B)(i) The aggregate amount directed to patient financial**
16 **assistance or support programs, including without limitation transportation,**
17 **nutritional counseling, and housing assistance.**

18 **(ii) The amount reported shall reflect only the**
19 **funds actually disbursed or redeemed from the 340B savings, rather than**
20 **merely allocated or earmarked for future use;**

21 **(C) The aggregate amount used to expand patient access to**
22 **healthcare services, including without limitation new facility or clinic**
23 **sites, extended hours, or additional programs that directly expand patient**
24 **access to healthcare services for populations living in and having a primary**
25 **residence located in a medically underserved area in this state;**

26 **(D) The aggregate amount directed, used, or allocated to**
27 **administrative operations, including without limitation:**

28 **(i) Salaries, wages, bonuses, and other forms of**
29 **employee compensation;**

30 **(ii) Benefits, such as retirement contributions,**
31 **health insurance premiums, or stipends;**

32 **(iii) General overhead expenses, including without**
33 **limitation facility maintenance, utilities, office supplies, and information**
34 **technology;**

35 **(iv) Marketing, public relations, or advertising**
36 **costs;**

1 (v) Management or consulting fees; and
 2 (vi) Any other administrative expenditures not
 3 directly related to patient care or financial assistance;
 4 (E) The amount allocated to any foundations or charitable
 5 organizations affiliated with the covered entity;
 6 (F) Any other uses of 340B savings, itemized to provide
 7 meaningful transparency without disclosing confidential business information
 8 that is protected by state or federal law; and
 9 (G) The total amounts disclosed under subdivisions
 10 (b)(2)(A)-(F) of this section, which do not exceed the total amount reported
 11 under subdivision (b)(1)(C) of this section;
 12 (3) The charity care and uncompensated care metrics provided by
 13 the covered entity, including without limitation:
 14 (A) The total dollar value of charity care or
 15 uncompensated care provided by the covered entity;
 16 (B) The total dollar value of bad debt or unreimbursed
 17 care; and
 18 (C)(i) The distinct number of patients receiving charity
 19 care or financial assistance.
 20 (ii) The metric under subdivision (b)(3)(C)(i) of
 21 this section shall be disclosed:
 22 (a) As an aggregate; and
 23 (b) By county, where county is based on the
 24 patient's home address or primary place of residence;
 25 (4) Populations served, including without limitation:
 26 (A)(i) The total number of distinct patients who receive
 27 services from the covered entity.
 28 (ii) The metric under subdivision (b)(4)(A)(i) of
 29 this section shall be disclosed:
 30 (a) As an aggregate; and
 31 (b) By county, where county is based on the
 32 patient's home address or primary place of residence; and
 33 (B)(i) The total number of distinct patients who received
 34 services from the covered entity with a home address or primary place of
 35 residence located within a medically underserved area.
 36 (ii) The metric under subdivision (b)(4)(B)(i) of

1 this section shall be disclosed:

2 (a) As an aggregate; and

3 (b) By county, where county is based on the
4 patient's home address or primary place of residence;

5 (5) The total number of distinct clinics or facilities, listed
6 by physical address, operated by the covered entity located within a
7 medically underserved area;

8 (6) The total number of distinct patients who received services
9 from the clinics or facilities operated by the covered entity located within
10 a medically underserved area; and

11 (7) Contract pharmacy arrangements, including without
12 limitation:

13 (A) The name and address of each contract pharmacy; and

14 (B) The total number of 340B-eligible claims processed
15 through each contract pharmacy.

16 (c)(1) The department shall post each covered entity's 340B
17 transparency report on a publicly accessible website no later than sixty (60)
18 days after the annual submission deadline, redacting any trade secrets or
19 proprietary data that is exempt from disclosure under Arkansas law.

20 (2) A covered entity may request that specific information be
21 classified as confidential, subject to review and approval by the department
22 under the Freedom of Information Act of 1967, § 25-19-101 et seq.

23
24 20-6-504. Enforcement – Penalties.

25 (a) The Department of Health may:

26 (1) Receive and review annual 340B transparency reports for
27 completeness and accuracy; and

28 (2) Conduct compliance audits or investigations of a covered
29 entity's 340B activities, as necessary, to verify the accuracy of reported
30 information.

31 (b)(1) If the department determines that a covered entity has failed to
32 submit a timely or complete 340B transparency report, the department shall
33 notify the covered entity in writing and provide thirty (30) days for the
34 covered entity to cure the deficiency.

35 (2) If the covered entity fails to cure the deficiency within
36 thirty (30) days, the department may impose an administrative penalty not to

1 exceed five hundred dollars (\$500) per day for each day of noncompliance,
2 subject to a maximum of one hundred fifty thousand dollars (\$150,000) per
3 year.

4 (3) The department may waive or reduce penalties upon a showing
5 of good cause.

6
7 20-6-505. Rules.

8 (a) The Department of Health shall promulgate rules to implement and
9 administer this subchapter.

10 (b) The rules under subsection (a) of this section shall include
11 without limitation:

12 (1) The development of standardized reporting forms and
13 procedures;

14 (2) The process for requesting confidential treatment of
15 proprietary information; and

16 (3) The criteria for determining penalties for noncompliance.

17
18 20-6-506. Construction.

19 (a) This subchapter does not conflict with or preempt any federal law
20 or regulation governing the 340B program.

21 (b) To the extent a provision of this subchapter is in conflict with
22 federal law, that provision of this subchapter is void.

23
24 20-6-507. Severability.

25 If a section, subsection, subdivision, sentence, or clause of this
26 subchapter is held invalid or unconstitutional, the remaining provisions
27 shall remain in force and shall be construed to give effect to the intent of
28 the subchapter.

29
30 SECTION 2. DO NOT CODIFY. Effective date.

31 This act is effective on and after January 1, 2026.
32
33
34
35
36