

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

SENATE BILL 589

By: Senator C. Penzo

For An Act To Be Entitled

AN ACT TO CREATE THE 340B PROGRAM TRANSPARENCY ACT;
TO REQUIRE TRANSPARENCY FROM CERTAIN 340B-COVERED
ENTITIES CONCERNING THE USE OF 340B PROGRAM SAVINGS;
TO REQUIRE CERTAIN 340B-COVERED ENTITIES TO ANNUALLY
REPORT THE UTILIZATION AND DISTRIBUTION OF 340B
PROGRAM SAVINGS TO ENSURE ACCOUNTABILITY AND
TRANSPARENCY; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE 340B PROGRAM TRANSPARENCY
ACT; AND TO AMEND THE LAW CONCERNING
TRANSPARENCY AND ACCOUNTABILITY FOR
CERTAIN 340B-COVERED ENTITIES.

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

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

Subchapter 5 – 340B Program Transparency Act

20-6-501. Title.

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

20-6-502. Definitions.

As used in this subchapter:

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) However, for purposes of this calculation:

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

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

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

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

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

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

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

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

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

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

(iv) Marketing, public relations, or advertising costs;

(v) Management or consulting fees; and
(vi) Any other administrative expenditures not directly related to patient care or financial assistance;

(E) The amount allocated to any foundations or charitable organizations affiliated with the covered entity;

(F) Any other uses of 340B savings, itemized to provide meaningful transparency without disclosing confidential business information that is protected by state or federal law; and

(G) The total amounts disclosed under subdivisions (b)(2)(A)-(F) of this section, which do not exceed the total amount reported under subdivision (b)(1)(C) of this section;

(3) The charity care and uncompensated care metrics provided by the covered entity, including without limitation:

(A) The total dollar value of charity care or uncompensated care provided by the covered entity;

(B) The total dollar value of bad debt or unreimbursed care; and

(C)(i) The distinct number of patients receiving charity care or financial assistance.

(ii) The metric under subdivision (b)(3)(C)(i) of this section shall be disclosed:

(a) As an aggregate; and

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

(4) Populations served, including without limitation:

(A)(i) The total number of distinct patients who receive services from the covered entity.

(ii) The metric under subdivision (b)(4)(A)(i) of this section shall be disclosed:

(a) As an aggregate; and

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

(B)(i) The total number of distinct patients who received services from the covered entity with a home address or primary place of residence located within a medically underserved area.

(ii) The metric under subdivision (b)(4)(B)(i) of

this section shall be disclosed:

(a) As an aggregate; and

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

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

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

(7) Contract pharmacy arrangements, including without limitation:

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

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

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

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

20-6-504. Enforcement – Penalties.

(a) The Department of Health may:

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

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

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

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

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

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

20-6-505. Rules.

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

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

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

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

(3) The criteria for determining penalties for noncompliance.

20-6-506. Construction.

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

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

20-6-507. Severability.

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

SECTION 2. DO NOT CODIFY. Effective date.

This act is effective on and after January 1, 2026.