

SB 2370 Amendment

A BILL for an Act to provide for a legislative management study relating to prescription drug transparency reporting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - 340B Transparency Reporting.

1. During the 2025-26 interim, the legislative management shall consider studying prescription drug transparency reporting. The study must include:

a. What reporting from hospitals operating in North Dakota which participate in the federal drug pricing program under Section 340B of the federal Public Health Service Act, 42 United States Code, Section 256b should be included in 340B Drug Discount Program transparency reporting and how that data would be used to assure compliance and benefit to patients in North Dakota. This must include an accounting of any amount of 340B savings not used within North Dakota; a comparison of estimated savings under the 340B program to the total drug expenditures; a description of internal review and oversight of the 340B program; total aggregated payments made to contract pharmacies for 340B program services; and how the savings from participation in the 340B program support community access to care that could not be continued without participation in the program; annual reporting of the amount of charity care provided; annual investments in healthcare workforce development; annual amount of prescription drug assistance program participation; and total annual costs in excess of Medicaid and Medicare payments.

b. What reporting from federally qualified health care centers operating in North Dakota which participate in the federal drug pricing program under Section 340B of the federal Public Health Service Act, 42 United States Code, Section 256b should be included in 340B Drug Discount Program transparency reporting and how that data would be used to assure compliance and benefit to patients in North Dakota. This must include an accounting of any amount of 340B savings not used within North Dakota; a comparison of estimated savings under the 340B program to the total drug expenditures; a description of internal review and oversight of the 340B program; total aggregated payments made to contract pharmacies for 340B program services; and how the savings from participation in the 340B program support community access to care that could not be continued without participation in the program; annual reporting of the amount of charity care provided; annual investments in healthcare workforce development; annual amount of prescription drug assistance program participation; and total annual costs in excess of Medicaid and Medicare payments.

c. What reporting from contracted pharmacies providing prescription medications to patients in North Dakota of 340B eligible covered entities under the 340B Drug Discount Program should be included in 340B Drug Discount Program transparency reporting and how that data would be used to assure compliance and benefit to patients in North Dakota. This must include the amount the contract pharmacy was paid in dispensing fees.

d. What reporting from drug manufacturers should be included in 340B Drug Discount Program transparency reporting and how that data would be used to assure compliance and benefit to patients in North Dakota. This must include the aggregate of any rebates, discounts, or other financial incentives or payments provided to health insurers, an explanation of 340B pricing denials or price altering, transaction level data regarding 340B discount application, all government subsidies, tax incentives, and grants received for each drug approved for sale in the United States.

e. What reporting from pharmacy benefits managers should be included in 340B Drug Discount Program transparency reporting and how that data would be used to assure compliance and benefit to patients in North Dakota. This must include the amount charged to employer plans for all drugs listed on formularies, the aggregated amount paid to pharmacies owned or affiliated with each pharmacy benefit manager, the aggregated amount paid to pharmacies that are not owned or affiliated with the pharmacy benefit manager, the aggregated 340B savings obtained from drug manufacturers under the 340B program including mail order pharmacies, specialty mail order pharmacies, community and hospital pharmacies it has ownership or affiliation with, disclosure of contract of contract policies that reduce reimbursement to pharmacies for their participation in the 340B program, aggregated report of the amount of 340B contract rate reductions to pharmacies, disclosure of the different 340B rates for pharmacies owned or affiliated compared to non-affiliated pharmacies, disclosure of the average dispensing fees paid to pharmacies owned or affiliated, including mail order pharmacies compared to the North Dakota Medicaid rate of dispensing, and disclosure of the average dispensing fee paid to non-affiliated pharmacies compared to the North Dakota Medicaid rate of dispensing.

f. What reporting from health insurers should be included in 340B Drug Discount Program transparency reporting and how that data would be used to assure compliance and benefit to patients in North Dakota. This must include how they have used excess revenues to reduce premium and patient out-of-pocket expenses, disclosure of rebates, price protection payments, discounts and other similar remunerations received from pharmacy benefit managers, disclosure of any ownership in a pharmacy benefit manager, how much revenue the pharmacy benefit manager provides to the insurer if they have ownership in one, disclose any participation in the 340B program under any segment of their business and the nature of that participation, aggregated revenue generated from participation in the 340B program and how it is used to reduce premiums and patient out-of-pocket expenses, and annual savings from claims denials beginning January 1, 2020.

g. Recommendation for legislation regarding how the North Dakota Insurance Commission will address violations of the federal drug pricing program under Section 340B of the federal Public Health Service Act, 42 United States Code, Section 256b by a hospital, federally qualified health care center, a 340B Program contracted pharmacy, drug manufacturer, pharmacy benefit manager, or health insurer identified through review of data collected, including, but not limited to federal antitrust laws and the Uniform State Anti-Rust Act.

h. The frequency required data must be reported to the North Dakota Insurance Commission by a hospital, federally qualified health care center, a 340B Program contracted pharmacy, drug manufacturer, pharmacy benefit manager, or health insurer to assure data provided is current, and to whom it will be reported.

i. The frequency in which the North Dakota Insurance Commission Where updated, publicly available 340B Program transparency analysis reporting will be published.

j. Additional staffing, if any, or contracted evaluation services required to collect, analyze, and develop the 340B Program transparency analysis report.

f. Include input from and consultation with key stakeholders including, but not limited to the following:

(1) A professional association representing hospitals operating in North Dakota

(2) A professional association representing pharmacies in North Dakota

(3) A professional association representing federally qualified healthcare centers in North Dakota

(4) An association representing rural health in North Dakota

(5) The North Dakota Department of Health and Human Services Medical Services Division

(6) The North Dakota Board of Pharmacy

(7) The North Dakota Insurance Department

(8) Hospitals participating in the 340B program

(9) Federally Qualified Health Care Centers

(10) 340B program contracted pharmacies

(11) Health insurers

2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the seventieth legislative assembly.