

## PROPOSED AMENDMENT TO HOUSE BILL NO. 1473

Pages 1 through 2, overstrike everything.

Page 1, line 1, insert:

"A BILL for an Act to create and enact section 23-01-45 of the North Dakota Century Code, relating to 340B covered entity transparency reporting and charity care to increase accountability to safeguard benefit.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section 23-01-45 of the North Dakota Century Code is created and enacted as follows:

1. For purposes of this section:
  - a. "340B drug" means a covered outpatient drug, as defined in 42 U.S.C. 1396r-8(k)(2), that has been subject to any offer for reduced prices by a manufacturer pursuant to 42 U.S.C. 256b(a)(1), and is purchased by a covered entity.
  - b. "340B profits" means the difference between (i) aggregated payments received from insurers, third-party payers, or self-paying patients for all 340B drugs, and (ii) aggregated acquisition cost paid for all 340B drugs.
  - c. "340B program" means the federal drug pricing program described in 42 U.S.C. 256b.
  - d. "Charity care" has the same meaning as ascribed to that term in line 23 of worksheet S-10 to the Medicare cost report or in any successor form.
  - e. "Contract pharmacy" means a pharmacy with which a covered entity has contracted to dispense 340B drugs on behalf of the covered entity to patients of the covered entity, whether distributed in person, via mail, or other means.
  - f. "Covered entity" has the same meaning as under 42 U.S.C. 256b(a)(4).
  - g. "Low-income patient" means a patient of the covered entity with a family income below 200 percent of the Federal Poverty Guidelines,
2. Beginning on July 1, 2026, and by July 1 each year thereafter, each covered entity shall report to the department of health and human services with respect to the covered entity and separately for each offsite facility associated with the

covered entity, the following information about the prior year, in a form and manner determined by the department of health and human services:

a. Delineated by form of insurance or third-party payer type, including but not limited to Medicaid, Medicare, commercial insurance, and uninsured:

- (1) Aggregated acquisition costs paid for all 340B drugs, i.e., the metric that was used to calculate 340B profits;
- (2) Aggregated payments received from insurers or third-party payers for all 340B drugs, i.e., the metric that was used to calculate 340B profits;
- (3) Total number of prescriptions and the percentage of the covered entity's prescriptions that were filled with 340B drugs; and
- (4) Percentage of patients served by a sliding fee scale for 340B drugs at the point of sale for low-income patients;

b. Total operating costs of the covered entity, and itemized costs for:

- (1) Implementing direct pass through of 340B profits to patients in the form of lower cost sharing for 340B drugs at the point of dispensing or administration;
- (2) Implementing a sliding fee scale for 340B drugs at the point of sale for low-income patients; and
- (3) Charity care;

c. Total payments made to:

- (1) Contract pharmacies for 340B program-related services and other functions;
- (2) Third-party administrators for managing any components of the covered entity's 340B program; and
- (3) Any other third parties in connection with 340B program-related compliance, legal, educational, and/or administrative costs;

d. Total number of contract pharmacies, and

- (1) Number of contract pharmacies located out-of-state and the states in which out-of-state contract pharmacies are located;
- (2) Total number of prescriptions and the percentage of the covered entity's prescriptions that were filled at contract pharmacies, delineated by in-state and out-of-state contract pharmacies;

- (3) Total remuneration paid to or retained by contract pharmacies or their affiliates for any 340B program-related services performed on behalf of the covered entity; and
  - (4) The percentage change in subsection (2)(d)(3) of this section compared to the prior year;
- 3. An officer of the covered entity shall certify the completeness and accuracy of the report submitted pursuant to subsection (2) of this section.
- 4. The department of health and human services shall use the information described in subsection (2) of this section to prepare a report detailing aggregate information received from the covered entity, including 340B program revenue across all covered entities in the state. The department of health and human services shall submit this report to the Legislature by October 1, 2026. The department of health and human services shall post the report submitted to the legislative assembly and all reports submitted by covered entities pursuant to this section on a publicly accessible website."

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Page 2, after line 8, insert:

“c. This subsection shall only apply with respect to physical contract pharmacy locations in North Dakota.”

Reletter accordingly