

HOUSE BILL NO. 1473

Sixty-ninth
Legislative Assembly
of North Dakota

Introduced by

Representatives Nelson, Mitskog, Murphy, Bahl, O'Brien

Senators Axtman, Dever, Lee

1 A BILL for an Act to create and enact a new subsection to section 43-15.3-08 of the North
2 Dakota Century Code, relating to prohibited acts of drug manufacturers; and to provide a
3 penalty.

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

5 **SECTION 1.** A new subsection to section 43-15.3-08 of the North Dakota Century Code is
6 created and enacted as follows:

a For purposes of this subsection:

- (1) "340B savings" 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.
- (2) "340B program" means the federal drug pricing program described in 42 U.S.C. 256b.
- (3) "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.
- (4) "Low-income patient" means a patient of the covered entity with a family income below 200 percent of the Federal Poverty Guidelines,

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8 ~~(1) "Contract pharmacy" means a pharmacy that has a contract with a covered~~
9 ~~entity to receive and dispense drugs to the covered entity's patients on its~~
10 ~~behalf.~~

- 11 ~~(2)-(6)~~ "Covered entity" means an entity participating or authorized to participate in
- a federal drug discount program under 42 U.S.C. 256b.
 - ~~(3)-(7)~~ "340B Drug" means a drug purchased under reduced pricing under section 340B of the federal Public Health Service Act [42 U.S.C. 201 et seq.] by a covered entity.

- 12 b. Except as otherwise provided under section 43-15.3-09, it is a class B
13 misdemeanor for a manufacturer, an agent or affiliate of that manufacturer, virtual
14 manufacturer, or third-party logistics provider of a manufacturer's drugs, to:
15 (1) Directly or indirectly deny, restrict, prohibit, or otherwise interfere with the
16 acquisition of a drug by a contract pharmacy on behalf of a covered entity
17 unless receipt of the drug is prohibited by federal law.
18 (2) Prohibit a contract pharmacy from dispensing a drug by denying access to
 • the drug.
2 (3) Require a covered entity or contract pharmacy to submit any claims,
3 encounter, or utilization data as a condition for acquiring or receiving a drug,
4 unless the claims, encounter, or utilization data sharing is required by
5 federal law.
6 (4) Interfere with the ability of a covered entity or contract pharmacy to
7 dispense a drug to an eligible patient of the covered entity.
8 (5) Offer or otherwise make available a drug in the form of a rebate, unless in
9 the form of a discount at the time of sale and authorized under federal law.
10 c. This subsection does not apply to the limited distribution of a drug as required
11 under 21 U.S.C. 355-1.
12 d. This subsection shall only apply with respect to physical contract pharmacy locations
in North Dakota.

SECTION 2.

- a. 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 the following information about the prior year, in a form and manner determined by the department of health and human services:
- 1) Delineated by form of insurance or third-party payer type, including but not limited to Medicaid, Medicare, commercial insurance, and uninsured:
 - (a) Aggregated acquisition costs paid for all 340B drugs, i.e., the metric that was used to calculate 340B savings;
 - (b) Aggregated payments received from insurers or third-party payers as well as for self-paying patients for all 340B drugs, i.e., the metric that was used to calculate 340B savings;
 - (c) Total number of prescriptions and the percentage of the covered entity's prescriptions that were filled with 340B drugs; and
 - (d) Percentage of patients served by a sliding fee scale for 340B drugs at the point of sale for low-income patients;
 - 2) Total payments made to:

- (a) Contract pharmacies for 340B program-related services and other functions;
 - (b) Third-party administrators for managing any components of the covered entity's 340B program; and
 - (c) Any other third parties in connection with 340B program-related compliance, legal, educational, and/or administrative costs;
- 3) Total number of contract pharmacies, and
 - (a) Number of contract pharmacies located out-of-state and the states in which out-of-state contract pharmacies are located;
 - (b) 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;
 - (c) 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
 - (d) The percentage change in subsection (2)(d)(3) of this section compared to the prior year;
- b. An officer of the covered entity shall certify the completeness and accuracy of the report submitted pursuant to subsection (2) of this section.
- c. 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."

