

1 AN ACT relating to the 340B Drug Pricing Program.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO
4 READ AS FOLLOWS:

5 **(1) As used in this Section:**

6 **(a) "340B drug" means a covered outpatient drug, as defined in 42 U.S.C. sec.**
7 **1396r-8(k)(2), that has been subject to any offer for reduced prices by a**
8 **pharmaceutical manufacturer pursuant to 42 U.S.C. sec. 256b(a)(1), and is**
9 **purchased by a nonprofit hospital;**

10 **(b) "340B Drug Pricing Program" means the federal prescription drug pricing**
11 **program established in accordance with 42 U.S.C. sec. 256b;**

12 **(c) "340B profit" means the difference between:**

13 **1. The aggregate payments received from insurers, third-party payors,**
14 **and self-paying patients for all 340B drugs; and**

15 **2. The aggregate acquisition cost paid for all 340B drugs;**

16 **(d) "Charity care" means free or discounted health care items and services**
17 **provided to an individual who meets the hospital's financial assistance**
18 **criteria and is unable to pay for the items or services, or both, rendered, as**
19 **reported on line 23 of Worksheet S-10 to the Medicare cost report or any**
20 **successor form;**

21 **(e) "Charity care costs" means the total cost for charity care incurred by a**
22 **nonprofit hospital, including any offsite outpatient facility associated with**
23 **the hospital that dispenses 340B drugs purchased by the hospital;**

24 **(f) "Contract pharmacy" means a pharmacy with which a nonprofit hospital**
25 **has contracted to dispense 340B drugs on behalf of the nonprofit hospital to**
26 **patients of the nonprofit hospital, whether distributed in person, by mail, or**
27 **any other means of dispensing;**

1 (g) "Low-income patient" means a patient with a family income below two
2 hundred percent (200%) of the federal poverty level; and

3 (h) "Nonprofit hospital" means a private nonprofit corporation or hospital
4 that:

5 1. Is licensed by the Cabinet for Health and Family Services as a
6 hospital; and

7 2. Meets the definition of covered entity in 42 U.S.C. sec. 256b(a)(4)(L),
8 (M), (N), or (O).

9 (2) By July 1, 2026, and each year thereafter, each nonprofit hospital shall report the
10 following information to the Cabinet for Health and Family Services, with
11 respect to the nonprofit hospital and separately for each offsite facility associated
12 with the nonprofit hospital, for the previous calendar year in a form and manner
13 prescribed by the cabinet:

14 (a) Delineated by form of insurance or third-party payor type, including but not
15 limited to Medicare, Medicaid, private insurance, self-pay, and uninsured:

16 1. The aggregate acquisition cost for all 340B drugs dispensed by the
17 nonprofit hospital, an associated facility, or contract pharmacy;

18 2. The aggregate payments received from insurers or third-party payors
19 for all 340B drugs dispensed by the nonprofit hospital, an associated
20 facility, or contract pharmacy;

21 3. The total number of prescriptions and the percentage of the nonprofit
22 hospital's prescriptions that were dispensed or administered with 340B
23 drugs;

24 4. The percentage of patients served on the basis of a sliding fee scale for
25 dispensed or administered 340B drugs at the point of sale;

26 (b) The total operating cost of the nonprofit hospital, including an itemized cost
27 report for the following:

- 1 1. Implementing direct pass through of 340B profits to patients in the
2 form of lower cost sharing for dispensed or administered 340B drugs
3 at the point of sale;
- 4 2. Implementing a sliding fee scale for dispensed or administered 340B
5 drugs at the point of sale for low-income patients; and
- 6 3. Charity care costs;
- 7 (c) Total payments made to:
 - 8 1. Contract pharmacies for 340B Drug Pricing Program-related services
9 and other functions;
 - 10 2. Third-party administrators for managing any aspect of the nonprofit
11 hospital's 340B Drug Pricing Program; and
 - 12 3. Any other party or entity in connection with 340B Drug Pricing
13 Program-related compliance, legal services, education, or
14 administrative costs;
- 15 (d) Information regarding contract pharmacies, including:
 - 16 1. The total number of contract pharmacies;
 - 17 2. The number of contract pharmacies located outside the
18 Commonwealth of Kentucky and the states in which those pharmacies
19 are located;
 - 20 3. The total number of prescriptions written by the hospital or its staff
21 that were filled at a contract pharmacy and the percentage of all
22 prescriptions written by the hospital or its staff that were filled by
23 contract pharmacies, delineated by in-state and out-of-state contract
24 pharmacies;
 - 25 4. The total remuneration paid to or retained by contract pharmacies or
26 their affiliates for any 340B Drug Pricing Program-related services
27 performed on behalf of the nonprofit hospital; and

1 5. The percentage change in total remuneration reported under
2 subparagraph 4. of this paragraph as compared to the previous
3 calendar year; and

4 (e) A detailed and itemized accounting of expenditures associated with 340B
5 profits, including an itemized report of all programs, services, equipment
6 purchases, staffing, and any other expenditures financed, in part or in
7 whole, by 340B profits.

8 (3) An officer of the nonprofit hospital shall certify that the report submitted
9 pursuant to this section is complete and accurate.

10 (4) The Cabinet for Health and Family Services shall post all reports submitted
11 pursuant to this section to its website.

12 ➔Section 2. (1) The Personnel Cabinet is hereby directed to study the impact
13 of nonprofit hospital purchases, contract pharmacy arrangements, and general practices
14 related to dispensing and administering 340B drugs on the Kentucky Employee Health
15 Plan. The study shall include but not be limited to an analysis of foregone rebates, the
16 effect on plan premiums, and the impact of the 340B Drug Pricing Program on state
17 employee's out-of-pocket healthcare expenses. The Personnel Cabinet shall submit a
18 report containing the findings of the study required under this section to the Legislative
19 Research Commission for referral to the Interim Joint Committee on Health Services and
20 the Interim Joint Committee on State Government no later than December 1, 2025.

21 (2) As used in this section:

22 (a) "340B drugs" has the same meaning as in Section 1 of this Act;

23 (b) "Contract pharmacy" has the same meaning as in Section 1 of this Act; and

24 (c) "Nonprofit hospital" has the same meaning as in Section 1 of this Act.

25 ➔Section 3. (1) The Cabinet for Health and Family Services shall submit a
26 report on the 340B Drug Pricing Program established in accordance with 42 U.S.C. sec.
27 256b to the Legislative Research Commission for referral to the Interim Joint Committee

1 on Appropriations and Revenue and the Interim Joint Committee on Health Services no
2 later than December 1, 2025. The report shall include the following for total aggregated
3 Medicaid cover outpatient drug units dispensed or administered in the state during the
4 prior calendar year separately for the Department for Medicaid Services fee for service
5 population and for each managed care organization with whom the department has
6 contracted for the delivery of Medicaid services:

7 (a) The number of dispensed or administered covered outpatient drug units;

8 (b) The number of dispensed or administered covered outpatient drug units that
9 were subject to a rebate under 42 U.S.C. sec. 1396r-8;

10 (c) The number of dispensed or administered covered outpatient drug units where
11 340B pricing was obtained by the nonprofit hospital, and the number of units billed by
12 contract pharmacies; and

13 (d) A reasonable estimate of net costs or savings to the Medicaid program due to
14 nonprofit hospital purchases of covered outpatient drug units at 340B pricing.

15 (2) To the extent that the Cabinet for Health and Family Services lacks
16 information to provide a data element required under subsection (1)(d) of this section, it
17 shall provide a reasonable estimate based on all available information and an explanation
18 of the information that it lacks.

19 (3) As used in this section:

20 (a) "Contract pharmacy" has the same meaning as in Section 1 of this Act;

21 (b) "Covered outpatient drug" has the same meaning as in 42 U.S.C. sec. 1396r-
22 8(k)(2); and

23 (c) "Nonprofit hospital" has the same meaning as in Section 1 of this Act.