HOUSE OF REPRESENTATIVES
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

H.B. NO. 712 H.D. 2 S.D. 1

A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the federal 340B drug pricing program (340B program) is essential for providing health care access to low-income and uninsured populations. The 340B program requires drug manufacturers to offer significant discounts on outpatient medications to eligible nonprofit hospitals and safety net providers, rural hospitals, community health centers, and Native Hawaiian health centers.

The legislature further finds that the 340B program helps stretch limited resources, allowing hospitals to reinvest savings into essential community benefits. These benefits include financial assistance for low-income patients, free wellness visits, screenings, vaccinations, transportation to appointments, health education classes, and workforce development programs. In Hawaii, the 340B program also supports unique services such as integrating Native Hawaiian health practices into patient care.

The legislature also finds that, despite the 340B program's importance, drug manufacturers have consistently tried to undermine the benefits provided by the program by limiting the use of contract pharmacies by 340B covered entities, which has made it particularly difficult for patients living in rural areas of the State. Contract pharmacies play a vital role in ensuring that patients can access medications, especially in rural areas where many hospitals do not have an in-house pharmacy. For example, more than eighty per cent of rural 340B hospitals nationwide rely on contract pharmacies to dispense medication to patients who might otherwise go without essential treatments.

The legislature additionally finds that contract pharmacies are crucial in Hawaii, where geographic barriers make access to health care difficult for many residents. By partnering with pharmacies in those communities, hospitals can ensure that patients in remote areas receive their prescribed medications without the need to travel long distances. This is especially important for those requiring specialty drugs, which are often available only through specific pharmacy channels.

The legislature further finds that the current restrictions imposed by drug manufacturers not only limit a patient's access to affordable medication, but also jeopardize the financial savings that hospitals depend on to provide these critical services. Hospitals use the difference between the 340B discounted drug price and the reimbursement from insurance to reinvest in their operations, expand services, and support underserved communities. Without access to contract pharmacies, hospitals face reduced savings, which could result in cutbacks to essential health care programs.

Accordingly, the purpose of this Act is to preserve the integrity of the 340B drug pricing program by prohibiting drug manufacturers from denying, restricting, or prohibiting the acquisition, shipping, or delivery of a 340B drug to a pharmacy under contract with any 340B covered entity in the State.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

340B DRUG DISCOUNT PROGRAM

§ -1 Definitions. As used in this chapter:

"340B covered entity" means an entity that participates in the federal 340B drug pricing program authorized by title 42 United States Code section 256b (section 340B of the Public Health Service Act).

"340B drug" means a prescription drug that is purchased by a 340B covered entity through the federal 340B drug pricing program authorized by title 42 United States Code section 256b (section 340B of the Public Health Service Act) and is dispensed by a pharmacy.

"Manufacturer" has the same meaning as defined in section 328-112.

"Pharmacy" has the same meaning as defined in section 461-1.

§ -2 Drug manufacturers; discriminatory acts prohibited. (a) No manufacturer, or any agent or affiliate of a manufacturer, shall deny, restrict, or prohibit, either directly or indirectly, the acquisition of a 340B drug by, or shipping or delivery of a 340B drug to, a pharmacy that is under contract with a 340B covered entity and is authorized under the contract to receive and dispense 340B drugs on behalf of the covered

entity unless the receipt is prohibited by the United States Department of Health and Human Services.

(b) Nothing in this section shall deny, restrict, or prohibit a manufacturer from requiring a 340B covered entity to provide claims information for the manufacturer's 340B drugs.

(c) No person other than a 340B covered entity or the attorney general may bring a civil action based upon a violation of this section.

§ -3 Suits by private entities; injunctive relief only. Any 340B covered entity that is injured in its business or property by reason of a violation of section -2 may bring a civil action to enjoin the violation. If a judgment is awarded in favor of the 340B covered entity, the 340B covered entity shall be awarded reasonable attorney's fees together with the costs of suit.

§ -4 Attorney general enforcement; remedies. (a) The attorney general may bring a civil action to enjoin a violation of section -2.

(b) Any manufacturer, or any agent or affiliate of a manufacturer, that violates section -2 shall be fined a sum of no less than $500 and no more than $2,500 for each violation.

The sum shall be collected in a civil action brought by the attorney general on behalf of the State. The penalties provided in this section are cumulative to the remedies or penalties available under all other laws of the State. Each day that a violation of section -2 occurs shall constitute a separate violation.

(c) In an action brought by the attorney general, a court may award disgorgement and any other equitable relief that it considers appropriate.

§ -5 **Limitation of actions.** Any action to enforce a cause of action arising under this chapter shall be barred unless commenced within four years after the cause of action accrues. For the purposes of this section, a cause of action for a continuing violation is deemed to accrue at any time during the period of the violation.

§ -6 **Covered entity transparency to increase accountability to safeguard benefit.** (a) Beginning on July 1, 2026, and by July 1 each year thereafter, each covered entity shall report to the department of health 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:

(1) Delineated by form of insurance or third-party payor type, including but not limited to medicaid, medicare, commercial insurance, and uninsured:

(A) Aggregated acquisition costs paid for all 340B drugs, including the metric that was used to calculate 340B profits;

(B) Aggregated payments received from insurers or third-party payers for all 340B drugs, including the metric that was used to calculate 340B profits;

(C) The total number of prescriptions and the percentage of the covered entity's prescriptions that were filled with 340B drugs; and

(D) The percentage of patients served by a sliding fee scale for 340B drugs at the point of sale for low-income patients;

(2) Total operating costs of the covered entity, and itemized costs for:

(A) 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;

(B) Implementing a sliding fee scale for 340B drugs at the point of sale for low-income patients; and

(C) Charity care;

(3) 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, including legal, educational, and administrative costs;

(4) Total number of contract pharmacies, including:

(A) The number of contract pharmacies located out-of-state and the states in which out-of-state contract pharmacies are located;

(B) The 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) The 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 the 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 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 (a).

(c) The department of health shall use the information described in subsection (a) to prepare an annual report detailing aggregate information received from the covered entity, including 340B program revenue across all covered

entities in the state. The department of health shall submit the report to the legislature by October 1, 2026, and twenty days prior to the convening of each regular session, beginning with the regular session of 2028. The department of health shall post the report submitted to the legislature and all reports submitted by covered entities pursuant to this section on a publicly accessible website.

(d) For the purposes of this section:

"340B drug" means a covered outpatient drug, as defined in title 42 United States Code section 1396r-8(k)(2), that has been subject to any offer for reduced prices by a manufacturer pursuant to title 42 United States Code section 256b(a)(1), and is purchased by a covered entity.

"340B profits" means the difference between:

(1) Aggregated payments received from insurers, third party payers, or self-paying patients for all 340B drugs; and

(2) The aggregated acquisition cost paid for all 340B drugs.

"340B program" means the federal drug pricing program described in title 42 United States Code section 256b.

"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.

"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.

"Covered entity" has the same meaning as defined in title 42 United States Code section 256b(a)(4).

"Low-income patient" means a patient of the covered entity with a family income below two hundred per cent of the federal poverty level."

SECTION 3. This Act shall take effect on December 31, 2050.

H.B. NO. 712 H.D. 2 S.D. 1

Report Title:
AG; DOH; Affordable Health Care; Prescription Drugs; 340B Drug Pricing Program; Pharmacies; Covered Entities; Discriminatory Practices; Reports

Description:
Prohibits drug manufacturers from denying, restricting, or prohibiting the acquisition, shipping, or delivery of a 340B drug to pharmacies contracted with 340B covered entities under the federal 340B Drug Pricing Program. Authorizes the 340B covered entity and Attorney General to bring a civil action for enforcement. Specifies a four-year limitations period for bringing an action. Requires each covered entity to report certain information annually to the Department of Health. Requires the Department of Health to prepare annual reports detailing the information received from covered entities, submit the reports to the Legislature, and make the reports publicly available. Defines covered entity. Effective 12/31/2050. (SD1)

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