

# Minority Report

## B-Engrossed

# House Bill 2385

Ordered by the Senate May 23  
Including House Amendments dated April 7 and Senate Minority  
Report Amendments dated May 23

Sponsored by nonconcurring members of the Senate Committee on Health Care: Senators HAYDEN, LINTHICUM

### SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

**Digest: The Act tells drug makers not to take actions that make it hard for a drug store to get certain drugs for health care providers, deliver the drugs to the providers, or dispense the drugs. Tells covered entities how to use some of the profits from 340B drugs and to make a report to DCBS about 340B drugs. Creates a new fund. (Flesch Readability Score: 72.6).**

*[Digest: The Act tells drug makers not to take actions that make it hard for a drug store to get certain drugs for health care providers, deliver the drugs to the providers or dispense the drugs. (Flesch Readability Score: 62.5).]*

Prohibits drug manufacturers from interfering directly or indirectly with a pharmacy or drug outlet acquiring 340B drugs, delivering 340B drugs to certain health care providers or dispensing 340B drugs. Prohibits drug manufacturers from requiring utilization review data from a drug outlet or pharmacy as a condition of the acquisition, delivery or dispensation of a 340B drug.

**Requires covered entities to utilize 340B drug profits in certain ways. Creates the 340B Drug Fund.**

**Requires covered entities to make a report to the Department of Consumer and Business Services regarding certain information related to 340B drugs. Requires the department to publish this information by a certain date each year.**

Takes effect on the 91st day following adjournment sine die.

### A BILL FOR AN ACT

1  
2 Relating to restrictions on 340B covered entities; and prescribing an effective date.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **“Covered entity”** has the meaning given that term in 42 U.S.C. 256b(a)(4).

6 (b) **“Manufacturer”** has the meaning given that term in ORS 646A.689.

7 (c) **“340B drug”** means a drug that has been subject to an offer of a reduced price by a  
8 manufacturer pursuant to 42 U.S.C. 256b and is purchased by a covered entity.

9 (d) **“Utilization review”** has the meaning given that term in ORS 743B.001.

10 (2) **A manufacturer or third party on behalf of a manufacturer may not:**

11 (a) **Deny, restrict, prohibit or otherwise interfere directly or indirectly with the acqui-**  
12 **sition of a 340B drug, delivery of a 340B drug to or dispensation of a 340B drug by a pharmacy**  
13 **that has contracted with a covered entity to receive and dispense 340B drugs on behalf of the**  
14 **covered entity in this state unless the acquisition delivery or dispensation is prohibited by**  
15 **the United States Department of Health and Human Services.**

16 (b) **Require, either directly or indirectly, a covered entity to submit a claim or utilization**  
17 **review data as a condition for the acquisition of a 340B drug by, delivery of a 340B drug to**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 or dispensation of a 340B drug by a pharmacy that has contracted with a covered entity to  
2 receive and dispense 340B drugs on behalf of the covered entity in this state unless the  
3 claims or utilization review data submission is required by the United States Department of  
4 Health and Human Services.

5 **SECTION 2.** Section 3 of this 2025 Act is added to and made a part of ORS chapter 411.

6 **SECTION 3.** (1) As used in this section:

7 (a) “Covered entity” and “340B drug” have the meanings given those terms in section 1  
8 of this 2025 Act.

9 (b) “Out-of-pocket cost” means the portion of costs for services an individual is respon-  
10 sible for paying, including a deductible or copayment.

11 (c) “340B drug profit” means the difference between total payment received by a covered  
12 entity for all 340B drugs and the total acquisition cost the covered entity paid for 340B drugs.

13 (2) A covered entity in this state shall utilize 340B drug profits as follows:

14 (a) For individuals who are not recipients of medical assistance, as defined in ORS  
15 414.025, 95 percent shall be utilized to decrease the out-of-pocket costs paid by the individual.

16 (b) For individuals who are recipients of medical assistance, as defined in ORS 414.025:

17 (A) 90 percent shall be utilized to decrease the out-of-pocket costs paid by the individual;  
18 and

19 (B) Five percent shall be deposited in the 340B Drug Fund described in section 6 of this  
20 2025 Act.

21 (3) The Department of Human Services, in consultation with the Department of Con-  
22 sumer and Business Services, the State Treasury and representatives from covered entities  
23 in this state, shall ensure the money deposited into the 340B Drug Fund on behalf of the in-  
24 dividual who received the 340B drug is credited to that individual’s electronic benefits  
25 transfer card. Moneys transferred from the 340B Drug Fund to an individual’s electronic  
26 benefits transfer card may only be utilized to purchase items described in 26 U.S.C. 213.

27 **SECTION 4.** Section 5 of this 2025 Act is added to and made a part of the Insurance Code.

28 **SECTION 5.** (1) As used in this section “covered entity” and “340B drug” have the  
29 meanings given those terms in section 1 of this 2025 Act.

30 (2) On or before March 1 of each year, all covered entities in this state shall report to  
31 the Department of Consumer and Business Services, in the form and manner prescribed by  
32 the department, the following information:

33 (a) For each form of reimbursement, including but not limited to insurance, self-pay,  
34 Medicare and the state-managed medical assistance program:

35 (A) Aggregated acquisition costs for all 340B drugs;

36 (B) Aggregated payments received;

37 (C) The total number of prescriptions and the percentage of the covered entity’s pre-  
38 scriptions that were 340B drugs; and

39 (D) The percentage of individuals utilizing a sliding fee scale for the purchase of 340B  
40 drugs.

41 (b) The total operating costs for the covered entity and an itemized list of costs for:

42 (A) Implementing the transfer of 340B drug profits to individuals in the form of lower  
43 cost-sharing for 340B drugs;

44 (B) Implementing a sliding fee scale for the purchase of 340B drugs; and

45 (C) 340B drugs provided with no payment or reimbursement received by the covered en-

1 tity.

2 (c) The total payments made to:

3 (A) Pharmacies that have contracted with the covered entity for 340B drug program re-  
4 lated services and other functions;

5 (B) Third-party administrators for managing any components of the covered entity's 340B  
6 drug program; and

7 (C) Any other third party for costs associated with the 340B drug program, including  
8 compliance, legal, education and administrative costs.

9 (d) The following information regarding 340B drug pharmacies that the covered entity  
10 has contracted with:

11 (A) The total number of 340B drug pharmacies and number of out-of-state pharmacies;

12 (B) The total number of prescriptions and the percentage of the covered entity's pre-  
13 scriptions that were filled at pharmacies, and whether those pharmacies are located in this  
14 state or out-of-state;

15 (C) The total reimbursement paid to pharmacies or an affiliated third party for any ser-  
16 vice related to the 340B drug program performed on behalf of the covered entity; and

17 (D) The percentage change from the previous year in total reimbursement paid to phar-  
18 macies or a third-party affiliate for any service related to the 340B drug program performed  
19 on behalf of the covered entity.

20 (3) No later than June 1 of each year, the department shall publish on the department's  
21 website the reports filed by covered entities under this section for the preceding calendar  
22 year.

23 **SECTION 6.** The 340B Drug Fund is established in the State Treasury, separate and dis-  
24 tinct from the General Fund. Interest earned by the 340B Drug Fund shall be credited to the  
25 fund. All moneys in the fund are continuously appropriated to the Department of Human  
26 Services for the purposes of carrying out the requirements established in section 3 of this  
27 2025 Act.

28 **SECTION 7.** This 2025 Act takes effect on the 91st day after the date on which the 2025  
29 regular session of the Eighty-third Legislative Assembly adjourns sine die.

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