

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 25-0153.01 Chelsea Princell x4335

SENATE BILL 25-124

SENATE SPONSORSHIP

Kirkmeyer and Gonzales J.,

HOUSE SPONSORSHIP

Brown and Garcia Sander,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING OUTPATIENT DRUGS THAT ARE SOLD AT A DISCOUNT TO
102 NONPROFIT HOSPITALS THROUGH THE FEDERAL 340B DRUG
103 PRICING PROGRAM.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires nonprofit hospitals (hospitals) to use 340B profits to decrease out-of-pocket costs for low-income patients.

The bill requires entities covered under the federal 340B drug pricing program that are hospitals licensed by the state to report information related to their participation in the 340B program, their use

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

1 (5) "CHARITY CARE COSTS" MEANS THE TOTAL COST INCURRED BY
2 THE NONPROFIT HOSPITAL FOR PROVIDING CHARITY CARE, INCLUDING
3 CHARITY CARE THAT IS PROVIDED AT AN OFF-SITE OUTPATIENT FACILITY
4 ASSOCIATED WITH THE NONPROFIT HOSPITAL, THAT DISPENSES 340B
5 DRUGS PURCHASED BY THE NONPROFIT HOSPITAL.

6 (6) "CONTRACT PHARMACY" MEANS A PHARMACY THAT A
7 NONPROFIT HOSPITAL HAS CONTRACTED WITH TO DISPENSE 340B DRUGS
8 ON BEHALF OF THE NONPROFIT HOSPITAL TO PATIENTS OF THE NONPROFIT
9 HOSPITAL, WHETHER DISTRIBUTED IN-PERSON, BY MAIL, OR BY OTHER
10 MEANS.

11 (7) "LOW-INCOME PATIENT" MEANS A PATIENT OF THE NONPROFIT
12 HOSPITAL WITH A FAMILY INCOME THAT DOES NOT EXCEED FOUR HUNDRED
13 PERCENT OF THE FEDERAL POVERTY LINE, ADJUSTED FOR FAMILY SIZE.

14 (8) "NONPROFIT HOSPITAL" MEANS A HOSPITAL THAT IS LICENSED
15 BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND IS A
16 PRIVATE NONPROFIT CORPORATION OR HOSPITAL PURSUANT TO 42 U.S.C.
17 SEC. 256b (a)(4)(L), (a)(4)(M), OR (a)(4)(O), BUT DOES NOT INCLUDE A
18 SOLE COMMUNITY HOSPITAL DESCRIBED IN 42 U.S.C. SEC. 256b (a)(4)(O),
19 A CRITICAL ACCESS HOSPITAL DESCRIBED IN 42 U.S.C. SEC. 256b
20 (a)(4)(N), OR DENVER HEALTH AND HOSPITALS.

21 **25.5-2.5-303. Use of 340B drug profits.** (1) BEGINNING
22 JANUARY 1, 2026, EACH NONPROFIT HOSPITAL SHALL USE 340B PROFITS
23 ACCORDING TO THE FOLLOWING:

24 (a) FIFTY-FIVE PERCENT OF 340B PROFITS MUST BE USED TO
25 DECREASE THE OUT-OF-POCKET COSTS PAID FOR 340B DRUGS THAT ARE
26 DISPENSED OR ADMINISTERED TO LOW-INCOME PATIENTS, IN ADDITION TO
27 EXISTING REQUIREMENTS TO PROVIDE CHARITY CARE TO UNINSURED

1 PATIENTS; AND

2 (b) FORTY PERCENT OF 340B PROFITS MUST BE USED TO DECREASE
3 OTHER OUT-OF-POCKET COSTS FOR LOW-INCOME PATIENTS.

4 (2) (a) AT THE POINT OF SALE, FOR ANY 340B DRUG THAT IS
5 DISPENSED OR ADMINISTERED TO A PATIENT AT A PHARMACY LOCATED
6 WITHIN THE NONPROFIT HOSPITAL, THE NONPROFIT HOSPITAL MUST
7 ENSURE THE FOLLOWING:

8 (I) A PATIENT WITH A HOUSEHOLD INCOME AT OR BELOW ONE
9 HUNDRED PERCENT OF THE FEDERAL POVERTY LINE PAYS ZERO DOLLARS
10 OUT OF POCKET; AND

11 (II) A PATIENT WITH A HOUSEHOLD INCOME ABOVE ONE HUNDRED
12 PERCENT BUT BELOW TWO HUNDRED PERCENT OF THE FEDERAL POVERTY
13 LINE PAYS NO MORE THAN THREE DOLLARS OUT OF POCKET.

14 (b) THE REQUIREMENTS OF SUBSECTION (2)(a) OF THIS SECTION DO
15 NOT APPLY TO A PATIENT WITH COVERAGE UNDER A
16 GOVERNMENT-SPONSORED PROGRAM, AS DEFINED IN SECTION 5000A(f) OF
17 THE FEDERAL "INTERNAL REVENUE CODE OF 1986".

18 (3) A NONPROFIT HOSPITAL SHALL NOT USE 340B PROFITS FOR THE
19 FOLLOWING PURPOSES:

20 (a) MORE THAN THIRTY-FIVE PERCENT OF TOTAL ANNUAL
21 COMPENSATION OR EXPENSE REIMBURSEMENT FOR THE NONPROFIT
22 HOSPITAL'S BOARD OF DIRECTORS;

23 (b) TAX PENALTIES OR FINES ISSUED AGAINST THE NONPROFIT
24 HOSPITAL;

25 (c) EXPENSES RELATED TO ADVERTISING AND PUBLIC RELATIONS
26 THAT PROMOTE THE NONPROFIT HOSPITAL'S IMAGE, SERVICES, OR
27 PROPOSALS, NOT INCLUDING COMMUNICATIONS REQUIRED BY LAW OR

1 THAT ARE ESSENTIAL FOR PATIENT SAFETY AND PATIENT INFORMATION;

2 (d) LOBBYING EXPENSES AND OTHER COSTS INTENDED TO
3 INFLUENCE LEGISLATION OR BALLOT MEASURES AT THE LOCAL, STATE, OR
4 FEDERAL LEVEL;

5 (e) TRAVEL, LODGING, FOOD, OR BEVERAGE EXPENSES FOR THE
6 NONPROFIT HOSPITAL'S BOARD OF DIRECTORS AND OFFICERS; AND

7 (f) GIFTS OR ENTERTAINMENT EXPENSES.

8 **25.5-2.5-304. Hospital transparency reporting.** (1) BEGINNING
9 JULY 1, 2026, AND BY JULY 1 EACH YEAR THEREAFTER, A NONPROFIT
10 HOSPITAL SHALL SUBMIT A REPORT TO THE STATE DEPARTMENT ON
11 BEHALF OF THE NONPROFIT HOSPITAL AND EACH OFF-SITE FACILITY
12 ASSOCIATED WITH THE NONPROFIT HOSPITAL IN THE FORM AND MANNER
13 DETERMINED BY THE STATE DEPARTMENT. THE REPORT MUST CONTAIN
14 THE FOLLOWING INFORMATION REGARDING THE PRIOR YEAR:

15 (a) DELINEATED BY FORM OF INSURANCE OR PAYER TYPE,
16 INCLUDING MEDICAID, MEDICARE, COMMERCIAL INSURANCE,
17 SELF-INSURED EMPLOYERS, AND UNINSURED:

18 (I) AGGREGATED ACQUISITION COSTS PAID FOR 340B DRUGS USED
19 TO CALCULATE 340B PROFITS;

20 (II) AGGREGATED PAYMENTS RECEIVED FROM INSURERS, PAYERS,
21 AND SELF-PAYING PATIENTS FOR ALL 340B DRUGS THAT WERE USED TO
22 CALCULATE 340B PROFITS;

23 (III) TOTAL NUMBER OF PRESCRIPTIONS AND THE PERCENTAGE OF
24 THE NONPROFIT HOSPITAL'S PRESCRIPTIONS THAT WERE FILLED USING
25 340B DRUGS;

26 (IV) PERCENTAGE OF LOW-INCOME PATIENTS WHOSE
27 OUT-OF-POCKET COSTS DECREASED PURSUANT TO SECTION 25.5-2.5-303

1 (1)(a);
2 (V) PERCENTAGE OF LOW-INCOME PATIENTS WHOSE
3 OUT-OF-POCKET COSTS DECREASED PURSUANT TO SECTION 25.5-2.5-303
4 (1)(b); AND
5 (VI) OUT-OF-POCKET COSTS THAT DECREASED PURSUANT TO
6 SECTION 25.5-2.5-303 (1)(b);
7 (b) TOTAL OPERATING COSTS OF THE NONPROFIT HOSPITAL AND
8 ITEMIZED COSTS RELATED TO:
9 (I) LOWERING OUT-OF-POCKET COSTS FOR LOW-INCOME PATIENTS
10 PURSUANT TO SECTION 25.5-2.5-303 (1); AND
11 (II) PROVIDING CHARITY CARE; AND
12 (c) TOTAL PAYMENTS MADE TO:
13 (I) CONTRACT PHARMACIES FOR 340B PROGRAM-RELATED
14 SERVICES AND OTHER FUNCTIONS;
15 (II) THIRD-PARTY ADMINISTRATORS FOR MANAGING ANY
16 COMPONENTS OF THE NONPROFIT HOSPITAL'S 340B PROGRAM; AND
17 (III) ANY OTHER THIRD PARTY IN CONNECTION WITH 340B
18 PROGRAM-RELATED COMPLIANCE, LEGAL, EDUCATIONAL, OR
19 ADMINISTRATIVE COSTS.
20 (2) AN OFFICER OF THE NONPROFIT HOSPITAL SHALL CERTIFY THE
21 COMPLETENESS AND ACCURACY OF THE REPORT SUBMITTED PURSUANT TO
22 SUBSECTION (1) OF THIS SECTION.
23 (3) THE STATE DEPARTMENT SHALL AGGREGATE THE REPORTS
24 DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO PREPARE A REPORT
25 DETAILING INFORMATION RECEIVED FROM NONPROFIT HOSPITALS,
26 INCLUDING 340B PROGRAM REVENUE ACROSS ALL NONPROFIT HOSPITALS
27 IN THE STATE. BEGINNING SEPTEMBER 15, 2026, AND EACH SEPTEMBER 15

1 THEREAFTER, THE STATE DEPARTMENT SHALL SUBMIT THE AGGREGATED
2 REPORT TO THE GENERAL ASSEMBLY AND PUBLISH ALL REPORTS
3 SUBMITTED BY A NONPROFIT HOSPITAL PURSUANT TO SUBSECTION (1) OF
4 THIS SECTION ON A PUBLICLY ACCESSIBLE WEBSITE.

5 **25.5-2.5-305. Reporting.** (1) BEGINNING NOVEMBER 1, 2026,
6 AND ANNUALLY THEREAFTER, THE STATE DEPARTMENT SHALL SUBMIT A
7 REPORT TO THE JOINT BUDGET COMMITTEE ON ANY LOSSES AND COSTS TO
8 THE STATE MEDICAL ASSISTANCE PROGRAM ARISING FROM NONPROFIT
9 HOSPITAL PURCHASES OF 340B DRUGS AND NONPROFIT HOSPITAL
10 PRACTICES RELATED TO PARTICIPATION IN THE 340B PROGRAM.

11 (2) BEGINNING NOVEMBER 1, 2026, AND ANNUALLY THEREAFTER,
12 THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION SHALL SUBMIT A
13 REPORT TO THE JOINT BUDGET COMMITTEE ON ANY LOSSES AND COSTS TO
14 THE STATE MEDICAL ASSISTANCE PROGRAM ARISING FROM NONPROFIT
15 HOSPITAL PURCHASES OF 340B DRUGS AND NONPROFIT HOSPITAL
16 PRACTICES RELATED TO PARTICIPATION IN THE 340B PROGRAM, INCLUDING
17 THE TOTAL AGGREGATE VALUE OF LOST MANUFACTURER REBATE
18 REVENUE.

19 **25.5-2.5-306. Enforcement.** (1) A VIOLATION OF THIS PART 3 IS
20 CONSIDERED AN UNFAIR AND DECEPTIVE TRADE PRACTICE PURSUANT TO
21 SECTION 6-1-105 AND SUBJECT TO ENFORCEMENT BY THE ATTORNEY
22 GENERAL.

23 (2) THE ATTORNEY GENERAL MAY INVESTIGATE AND BRING A CIVIL
24 ACTION AGAINST THE NONPROFIT HOSPITAL IN A COURT OF COMPETENT
25 JURISDICTION FOR A VIOLATION OF THIS PART 3.

26 (3) THE ATTORNEY GENERAL SHALL ESTABLISH A PROCESS FOR
27 INDIVIDUALS TO REPORT SUSPECTED VIOLATIONS OF THIS PART 3 TO THE

1 ATTORNEY GENERAL AND A PROCESS FOR THE ATTORNEY GENERAL TO
2 PROMPTLY AND FULLY INVESTIGATE REPORTS OF SUSPECTED VIOLATIONS.

3 **SECTION 2.** In Colorado Revised Statutes, 6-1-105, **add** (1)(iii)
4 as follows:

5 **6-1-105. Unfair or deceptive trade practices - definitions.**

6 (1) A person engages in a deceptive trade practice when, in the course of
7 the person's business, vocation, or occupation, the person:

8 (iii) VIOLATES PART 3 OF ARTICLE 2.5 OF TITLE 25.5.

9 **SECTION 3.** In Colorado Revised Statutes, 24-31-101, **amend**
10 (1)(i)(XXII) and (1)(i)(XXIII); and **add** (1)(i)(XXIV) as follows:

11 **24-31-101. Powers and duties of attorney general.** (1) The
12 attorney general:

13 (i) May independently initiate and bring civil and criminal actions
14 to enforce state laws, including actions brought pursuant to:

15 (XXII) Part 14 of article 12 of title 38; ~~and~~

16 (XXIII) Section 24-34-806; AND

17 (XXIV) PART 3 OF ARTICLE 2.5 OF TITLE 25.5.

18 **SECTION 4. Safety clause.** The general assembly finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety or for appropriations for
21 the support and maintenance of the departments of the state and state
22 institutions.