

**[DISCUSSION DRAFT]**

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R.** \_\_\_\_\_

To amend the Public Health Service Act to require under the 340B drug discount program reports by covered entities regarding certain information on savings to covered entities from discounted prices under the program and the relationship between such savings and charity care expenditures of such covered entities.

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IN THE HOUSE OF REPRESENTATIVES

Mr. BUCSHON introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Public Health Service Act to require under the 340B drug discount program reports by covered entities regarding certain information on savings to covered entities from discounted prices under the program and the relationship between such savings and charity care expenditures of such covered entities.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “[\_\_\_\_\_] Act of  
5 2018”.

1 **SEC. 2. REQUIRING UNDER 340B DRUG DISCOUNT PRO-**  
2 **GRAM REPORTS BY COVERED ENTITIES RE-**  
3 **GARDING CERTAIN INFORMATION ON DRUG**  
4 **PRICE SAVINGS AND CHARITY CARE EXPEND-**  
5 **ITURES OF SUCH COVERED ENTITIES.**

6 Section 340B(d)(2) of the Public Health Service Act  
7 (42 U.S.C. 256b(d)(2)) is amended—

8 (1) in subparagraph (B)(i), by inserting before  
9 the period at the end the following: “, including,  
10 with respect to such updates made beginning on or  
11 after January 1, 2020, by requiring covered entities  
12 described in subparagraphs (L), (M), (N), and (O)  
13 to submit (and to so regularly update) information  
14 described in subparagraph (C)”;

15 (2) by adding at the end the following new sub-  
16 paragraph:

17 “(C) INFORMATION ON SAVINGS, REV-  
18 ENUE, AND CHARITY CARE.—For purposes of  
19 subparagraph (B)(i), the information described  
20 in this subparagraph, with respect to a covered  
21 entity described in subparagraph (L), (M), (N),  
22 or (O) (including any site of the entity identi-  
23 fied pursuant to the identification system under  
24 subparagraph (B)(iv)) and an update under  
25 such subparagraph (B)(i), is the following:

1                   “(i) INFORMATION ON SAVINGS.—In-  
2                   formation containing an estimate of the  
3                   aggregate savings on drug purchases to the  
4                   covered entity as a result of being a cov-  
5                   ered entity during the most recent 12-  
6                   month period, which shall be calculated  
7                   by—

8                                 “(I) for each covered outpatient  
9                                 drug subject to an agreement under  
10                                this section purchased by the covered  
11                                entity during such period, determining  
12                                the amount by which the wholesale ac-  
13                                quisition cost for such covered out-  
14                                patient drug for such period exceeds  
15                                the discounted price charged for such  
16                                covered outpatient drug to the covered  
17                                entity by the manufacturer of such  
18                                covered outpatient drug; and

19                               “(II) determining the sum of all  
20                                amounts determined under subclause  
21                                (I) for all such covered outpatient  
22                                drugs purchased by the covered entity  
23                                during such period.

24                               “(ii) INFORMATION ON REVENUE.—  
25                   Information containing an estimate of the

1 aggregate revenue on drug purchases to  
2 the covered entity as a result of being a  
3 covered entity during the most recent 12-  
4 month period, which shall be calculated,  
5 with respect to covered outpatient drugs  
6 subject to an agreement under this section  
7 purchased by the covered entity during  
8 such period and for which such entity re-  
9 ceives payment by a third party (such as  
10 a group health plan, health insurance cov-  
11 erage, or beneficiary), by—

12 “(I) for each such covered out-  
13 patient drug, determining the amount  
14 by which such payment made by the  
15 third party exceeds the amount deter-  
16 mined under clause (i)(I) for such  
17 covered outpatient drug, covered enti-  
18 ty, and period; and

19 “(II) determining the sum of all  
20 amounts determined under subclause  
21 (I) for all such covered outpatient  
22 drugs purchased by the covered entity  
23 during such period.

24 “(iii) INFORMATION ON PAYOR MIX.—

25 The percentage of overall inpatient days

1 charges and overall outpatients visits  
2 charges by the covered entity, with respect  
3 to the most recent 12-month period, that  
4 are attributable to claims under each of  
5 the following categories:

6 “(I) Individuals entitled to or en-  
7 rolled under the Medicare program  
8 under title XVIII of the Social Secu-  
9 rity Act.

10 “(II) Individuals enrolled under  
11 the Medicaid program under title XIX  
12 of such Act.

13 “(III) Individuals enrolled under  
14 the Children’s Health Insurance Pro-  
15 gram under title XXI of such Act.

16 “(IV) Individuals enrolled under  
17 any other Federal health care pro-  
18 gram.

19 “(V) Individuals enrolled in  
20 health insurance coverage offered on  
21 the individual market.

22 “(VI) Individuals who are not de-  
23 scribed in a previous subclause and  
24 who are not otherwise enrolled under

1 health insurance coverage or group  
2 health plan.

3 “(iv) INFORMATION ON UNCOMPEN-  
4 SATED COSTS.—Information on the aggre-  
5 gate unreimbursed costs and uncompen-  
6 sated costs of the covered entity during the  
7 most recent 12-month period, including the  
8 following:

9 “(I) Total unreimbursed costs for  
10 Medicaid, CHIP, and State and local  
11 indigent care programs.

12 “(II) Costs of charity care.

13 “(III) Costs of non-Medicare and  
14 non-reimbursable Medicare bad debt  
15 expenses.

16 “(IV) Uncompensated care.

17 “(V) Total unreimbursed and un-  
18 compensated costs.

19 “(VI) Net income or loss.

20 “(VII) Net income on patient  
21 service revenue.”.