[DISCUSSION DRAFT]

115TH CONGRESS 2D 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”.

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SEC. 2. REQUIRING UNDER 340B DRUG DISCOUNT PROGRAM REPORTS BY COVERED ENTITIES REGARDING CERTAIN INFORMATION ON DRUG PRICE SAVINGS AND CHARITY CARE EXPENDITURES OF SUCH COVERED ENTITIES.

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

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

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

“(C) INFORMATION ON SAVINGS, REVENUE, AND CHARITY CARE.—For purposes of subparagraph (B)(i), the information described in this subparagraph, with respect to a covered entity described in subparagraph (L), (M), (N), or (O) (including any site of the entity identified pursuant to the identification system under subparagraph (B)(iv)) and an update under such subparagraph (B)(i), is the following:
“(i) INFORMATION ON SAVINGS.—Information containing an estimate of the aggregate savings on drug purchases to the covered entity as a result of being a covered entity during the most recent 12-month period, which shall be calculated by—

“(I) for each covered outpatient drug subject to an agreement under this section purchased by the covered entity during such period, determining the amount by which the wholesale acquisition cost for such covered outpatient drug for such period exceeds the discounted price charged for such covered outpatient drug to the covered entity by the manufacturer of such covered outpatient drug; and

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

“(ii) INFORMATION ON REVENUE.—Information containing an estimate of the
aggregate revenue on drug purchases to
the covered entity as a result of being a
covered entity during the most recent 12-
month period, which shall be calculated,
with respect to covered outpatient drugs
subject to an agreement under this section
purchased by the covered entity during
such period and for which such entity re-
ceives payment by a third party (such as
a group health plan, health insurance cov-
erage, or beneficiary), by—

“(I) for each such covered out-
patient drug, determining the amount
by which such payment made by the
third party exceeds the amount deter-
mined under clause (i)(I) for such
covered outpatient drug, covered enti-
y, and period; and

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

“(iii) INFORMATION ON PAYOR MIX.—
The percentage of overall inpatient days
charges and overall outpatients visits
costs by the covered entity, with respect
to the most recent 12-month period, that
are attributable to claims under each of
the following categories:

“(I) Individuals entitled to or en-
rrolled under the Medicare program
under title XVIII of the Social Secu-
rity Act.

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

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

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

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

“(VI) Individuals who are not de-
scribed in a previous subclause and
who are not otherwise enrolled under
health insurance coverage or group health plan.

“(iv) INFORMATION ON UNCOMPENSATED COSTS.—Information on the aggregate unreimbursed costs and uncompensated costs of the covered entity during the most recent 12-month period, including the following:

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

“(II) Costs of charity care.

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

“(IV) Uncompensated care.

“(V) Total unreimbursed and uncompensated costs.

“(VI) Net income or loss.

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