Senate Health and Human Services Committee

Sophie Walsh 271-3469

SB 477-FN, relative to increasing transparency in the 340B Drug Pricing Program.

Hearing Date: January 21, 2026

Time Opened: 1:51 p.m. **Time Closed**: 2:38 p.m.

Members of the Committee Present: Senators Rochefort, Avard, Birdsell, Prentiss and Long

Members of the Committee Absent: None

Bill Analysis: This bill establishes certain reporting requirements for the department of health and human services, hospitals, and other covered entities participating in the 340B Drug Pricing Program. The bill also directs the department to require claim-level 340B identifiers across fee-for-service and managed care organization claims and implement exclusion rules to prevent duplicate discounts, consistent with GAO/CMS guidance.

Sponsors:

Sen. McGough	Sen. Gannon	Sen. Pearl
Sen. Birdsell	Sen. Innis	Rep. Miles
Rep. W. MacDonald	Rep. Ammon	Rep. Cole
Rep. Kuttab		

Who supports the bill: Sen. McGough, Sen. Innis, Sen. Pearl, Rep. Julie Miles, Rep. Yury Polozov, and Beverly Goodell (Lupus Foundation New England).

Who opposes the bill: Ben Bradley (NH Hospital Association).

Who is neutral on the bill: Dr. Jason Aziz (NHID) and Henry Lipman (DHHS).

Summary of testimony presented:

Senator Tim McGough, Senate District 11

- Senator McGough explained that the 340B program was created by Congress in 1992 to be a safety net for providers to purchase outpatient prescription drugs at discounted prices, so they could stretch resources to provide more care to uninsured and low-income patients.
- While utilization of this program has increased over the years, the proportionate spending on uncompensated care has decreased, creating a gap.

- This program is administered by the federal Health Resources and Services Administration (HRSA). While there are some reporting requirements, hospitals are not required to report exactly how savings are ultimately used. HRSA also does not possess broad rulemaking authority in this area.
- This gap is why state-level transparency is appropriate and necessary.
- This bill does not change who qualifies for the 340B program, how discounts are calculated, or how manufacturers participate. It simply asks the covered entities in New Hampshire to report in the aggregate how 340B savings relate to charity care, rural access, and patient services.
- This bill supports uncompensated care for uninsured patients by making sure the financial benefits intended by Congress are visible and accountable at the community level.
- This bill does not conflict with any federal law and is not subject to federal preemption. It is narrowly tailored to avoid any proprietary pricing disclosures and is within the state's authority.
- Senator Avard asked if this is creating another layer of bureaucracy to monitor a federal program.
- Senator McGough said that could be argued, as this bill is asking for additional transparency not currently required by the federal government. He emphasized that this is within the state's purview and that there is a gap between the program utilization and spending on free care.
- Senator Avard confirmed that federal guidelines do not disclose these gaps, and Senator McGough confirmed that they do not do so sufficiently.

Representative Julie Miles, Hillsborough – District 12

- Representative Miles stated that she is speaking in support of the bill as a cosponsor and as an individual with relevant professional experience. She understands the clinical realities and the financial pressures facing patients and health plans.
- The 340B program was created to care for patients who are underinsured, uninsured, or struggling to afford their care.
- When used as intended, this program can expand access to care, reduce financial toxicity, and improve outcomes. When these savings are not transparent, patients lose out.
- This bill is about making sure these savings are actually working for patients. It does not reduce hospital participation, cap spending, or interfere with care delivery.

Representative Yury Polozov, Merrimack – District 10

- Representative Polozov stated that he is speaking in support of the bill. He noted that he is sponsoring a similar initiative in the House.

- This bill is very important for transparency. There should be some oversight on the federal level. He explained that HRSA is being removed from overseeing this program, and it will now be going to CMS.
- Last year, six states had similar measures implemented.

Dr. Jason Aziz, New Hampshire Insurance Department
- Dr. Aziz stated that he is here for informational purposes.
- He emphasized the importance of transparency measures in health care pricing.
- Senator Prentiss noted prior testimony about people needing to know prices and explained that when she had a hip replacement, she received an estimate beforehand outlining the range of possible costs. She asked what the intersection of these factors is.
- Dr. Aziz noted that one of the challenges with transparency is we can never know what complications may happen. The more complex a procedure is, the wider the range in price estimate. If you look across a continuum of health care expenditures, there is more narrow price variability. He emphasized that this is a quantitative issue that does not need to hold back price transparency efforts.
- Senator Rochefort confirmed that this is specific to a specific federal program, and Dr. Aziz confirmed. He explained that the federal government is a large consumer of health care. He emphasized that the goal is to know that these discounts are reaching the people for which the federal law intended them to reach.
- Senator Rochefort said he is all for transparency and questioned why this would not be required by the federal government, as it is a federal program.
- Dr. Aziz explained that HRSA did have federal oversight over the program, but the federal budget for 2026 shifts that oversight to CMS. There is a website called the Office of Pharmacy Affairs and Information Systems that reports on the insights that the federal government has. There have been several states trying to take up what the federal government has not been able to do in overseeing this. Dr. Aziz emphasized that prescription drug costs in the aggregate are affected by this.
- Senator Avard noted prior testimony about this being adopted in other states and asked if Dr. Aziz knows of any cost-benefits in these states.
- Dr. Aziz explained that he does not have any information on that, but the Department did submit a fiscal note. He explained that in creating a fiscal note, certain assumptions, such as compliance, had to be made. If that assumption is met, then one of the findings is that the marginal costs of submitting this data to the state is not zero, but trivial.
- Senator Avard asked if this would potentially alert the state of non-compliance, and if not the federal government would know.

- Dr. Aziz emphasized that authority being switched from HRSA to CMS tells him that the allocated resources for that endeavor were insufficient. That is why states are taking this up now.

Henry Lipman, Department of Health and Human Services

- In 2024, the Senate passed a bill to ensure that providers were not artificially limited from accessing the 340B program.
- Unlike most states, in New Hampshire when any Medicaid patient accesses a 340B entity, the rebate revenue comes to the state which funds the Medicaid program.
- Mr. Lipman expressed concern about model legislation throughout the country on this issue, as they intend to limit use. He said it is important to make clear that the intent of this bill is to share where proceeds from the rebates other than Medicaid go.
- The Department would like to work with stakeholders on this bill.
- Mr. Lipman reviewed the bill and noted the technical concerns that he has with the bill.
- He emphasized that he wants to ensure we are not limiting qualified 340B providers from being able to draw down extra rebates and not limiting the funding available for the Medicaid program.
- Senator Rochefort asked what specifically gives Mr. Lipman the greatest concern regarding Medicaid.
- Mr. Lipman suggested clarifying the purpose clause to explain that this is not trying to undo what was passed in 2024 in terms of limiting qualified providers from accessing discounts, nor is it the intent to change the financing structure for the Medicaid program. He does not think it is the sponsor's intent to do this, but he wants to be clear.

Ben Bradley, New Hampshire Hospital Association

- Mr. Bradley stated that he is speaking in opposition to the bill.
- This bill enacts an exhaustive list of unnecessary and burdensome requirements for 340B participating hospitals, including all of New Hampshire's 13 critical access hospitals.
- Congress instituted this bill to stretch scarce federal resources for providers serving a disproportionately high number of low-income patients and to help shield these providers from the major increases in drug prices.
- Hospitals in New Hampshire are paid approximately 67.7% of the cost of providing care to Medicare patients. In 2024, almost 1/3 of the state's participating 340B hospitals had negative operating margins.

- The 340B program is one of the most consequential policy solutions to ensure that drug companies contribute to the health care safety net, with no federal or state taxpayer dollars used to fund the program.
- Mr. Bradley explained that nothing has affected the growth of the 340B program more than the high prices charged for these drugs. In 2023, the median price of a new drug was $300,000. In 2024, the median price of a new drug was $370,000. This increase of 23% is the same growth rate that the 340B program experienced in that same time frame.
- This bill does not do anything to change the benefits, eligibility, structure, or federal accountability already required for this program.
- Mr. Bradley explained that one of the pillars of this year's work to address affordability in health care is identifying the true cost drivers. A major area identified is the costs of unnecessary regulatory burdens. The average size community hospital in the U.S. employs 59 FTEs for regulatory compliance, over 1/4 of which is doctors and nurses being pulled away from the bedside, costing almost $7.6 million annually.
- This bill would add to those unnecessary costs, while hospitals are already held accountable for their participation in the 340B program by HRSA. This accountability is ensured for both providers and drug manufacturers.
- Mr. Bradley noted that there are several technical challenges for hospitals to comply with the reporting requirements in this bill.
- Senator Birdsell noted that Mr. Bradley said there is robust HRSA oversight, yet the Insurance Department testified that HRSA is no longer in control of this oversight.
- Mr. Bradley said that HRSA maintains administrative oversight for this program and accountability for both providers and drug manufacturers. He noted that one hospital has a scheduled HRSA audit next month.
- Senator Rochefort asked if Mr. Bradley finds it to be true that spending on free care has declined over the past several years.
- Mr. Bradley explained that he does not agree from his perspective.
- Senator Rochefort asked how uncompensated care has looked over the last several years.
- Mr. Bradley emphasized that this is where Medicaid only paying a percentage of cost of care comes in. That gap is the uncompensated care. For individuals unable to pay, hospitals can set up payment plans, but they often end up eating the cost for certain services.
- Senator Rochefort asked if this would be another cost to the operation of hospitals, especially in light of changes down the road. Mr. Bradley confirmed. He emphasized that the concern is if this will affect participation in the program.

- Senator Prentiss asked if 340B dollars are considered charity care, and Mr. Bradley said they are not.
- Senator Prentiss explained that she runs a non-profit that must complete the 990 form with requirements for things like uncompensated care and charity contributions. She asked if any of this is reflected in the 990 form.
- Mr. Bradley said he would get back to the Committee with an answer.

Beverly Goodell, Lupus Foundation New England

- Ms. Goodell explained that many of the people she serves are on high-cost medications to manage their disease and maintain quality of life.
- The Lupus Foundation supports efforts to improve transparency and accountability in this program. All stakeholders should share the goal of ensuring that this program is truly helping underserved patients access the medications that they need.
- The lack of clear rules and reporting requirements has created an uneven system, with some participants operating with little oversight. This makes it difficult to determine whether 340B savings are being used to help low-income and uninsured patients.
- Independent analysis has shown that patients directly received discounted medications in only a small fraction of the prescriptions eligible for this program.
- For people with Lupus, access to affordable medication is essential for wellbeing.
- Senator Rochefort referenced the independent analysis and asked if Ms. Goodell could share it with the Committee, and Ms. Goodell agreed.

Senator Tim McGough, Senate District 11

- Senator McGough reviewed statistics from HRSA. Between 2010 and 2023, 340B savings increased from $5 billion to $63 billion. Yet, uncompensated care decreased from 3.3% of all costs in 2011 to 2.7% in 2017.

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Date Hearing Report completed: January 27, 2026