

109TH CONGRESS  
1ST SESSION

# H. R. 4544

To amend the Public Health Service Act to revise and expand the section 340B program to improve the provision of discounts on drug purchases for certain safety net providers.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2005

Mr. RUSH introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Public Health Service Act to revise and expand the section 340B program to improve the provision of discounts on drug purchases for certain safety net providers.

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 “340B Program Revi-  
5       sion and Expansion Act of 2005”.

6       **SEC. 2. IMPROVEMENTS TO SECTION 340B PROGRAM.**

7       (a) EXPANSION OF COVERED ENTITIES RECEIVING  
8       DISCOUNTED PRICES.—Subsection (a)(4) of section 340B

1 of the Public Health Service Act (42 U.S.C. 256b) is  
 2 amended by adding at the end the following subpara-  
 3 graphs:

4                   “(M) An entity receiving funds under title  
 5                   V of the Social Security Act (relating to mater-  
 6                   nal and child health) for the provision of health  
 7                   services.

8                   “(N) An entity receiving funds under sub-  
 9                   part I of part B of title XIX of this Act (relat-  
 10                  ing to comprehensive mental health services) for  
 11                  the provision of community mental health serv-  
 12                  ices.

13                  “(O) An entity receiving funds under sub-  
 14                  part II of such part B (relating to the preven-  
 15                  tion and treatment of substance abuse) for the  
 16                  provision of treatment services for substance  
 17                  abuse.”.

18           (b) EXTENSION OF DISCOUNTS TO INPATIENT  
 19 DRUGS.—Subsection (b) of such section is amended by in-  
 20 serting before the period at the end the following: “, except  
 21 that the terms ‘covered outpatient drug’ and ‘covered  
 22 drug’ include a drug provided in an inpatient setting”.

23           (c) ELIMINATION OF GROUP PURCHASING PROHIBI-  
 24 TION FOR CERTAIN HOSPITALS.—Subsection (a)(4)(L) of  
 25 such section is amended—

- 1           (1) by adding “and” at the end of clause (i);  
2           (2) by striking “; and” at the end of clause (ii)  
3           and inserting a period; and  
4           (3) by striking clause (iii).

5           (d) PERMITTING USE OF MULTIPLE CONTRACT  
6 PHARMACIES.—Such section is amended by adding at the  
7 end the following new subsection:

8           “(e) PERMITTING USE OF MULTIPLE CONTRACT  
9 PHARMACIES.—Nothing in this section shall be construed  
10 as prohibiting a covered entity from entering into con-  
11 tracts with more than one pharmacy for the provision of  
12 covered drugs, including such a contract that supplements  
13 the use of an in-house pharmacy arrangement or as re-  
14 quiring the approval of the Secretary for entering into  
15 such a contract.”.

16           (e) IMPROVEMENTS IN PROGRAM ADMINISTRA-  
17 TION.—Such section is further amended by adding at the  
18 end the following new subsection:

19           “(f) IMPROVEMENTS IN PROGRAM ADMINISTRA-  
20 TION.—

21           “(1) IN GENERAL.—The Secretary shall pro-  
22 vide, from funds appropriated under paragraph (2),  
23 for improvements in the integrity and administration  
24 of the program under this section in order to pre-  
25 vent abuse and misuse of discounted prices made

1 available under this section. Such improvements  
2 shall include the following:

3 “(A) The development of a system to verify  
4 the accuracy of information regarding covered  
5 entities that is listed on the website of the De-  
6 partment of Health and Human Services relat-  
7 ing to this section.

8 “(B) The establishment of a third-party  
9 auditing system by which covered entities and  
10 manufacturers are regularly audited to ensure  
11 compliance with the requirements of this sec-  
12 tion.

13 “(C) The conduct of such audits under  
14 subsection (a)(5)(C) that supplement the audits  
15 conducted under subparagraph (B) as the Sec-  
16 retary finds appropriate and the implementa-  
17 tion of dispute resolution guidelines and other  
18 compliance programs.

19 “(D) The development of more detailed  
20 guidance regarding the definition of section  
21 340B patients and describing options for billing  
22 under the medicaid program under title XIX of  
23 the Social Security Act in order to avoid dupli-  
24 cative discounts.

1           “(E) The issuance of advisory opinions  
2           within defined time periods in response to ques-  
3           tions from manufacturers or covered entities re-  
4           garding the application of the requirements of  
5           this section in specific factual circumstances.

6           “(F) Insofar as the Secretary deems it fea-  
7           sible, providing access through the website of  
8           the Department of Health and Human Services  
9           on the prices for covered drugs made available  
10          under this section, but only in a manner (such  
11          as through the use of password protection) that  
12          limits such access to covered entities.

13          “(2) AUTHORIZATION OF APPROPRIATIONS.—  
14          There are authorized to be appropriated for fiscal  
15          year 2006 and each succeeding fiscal year such sums  
16          as may be necessary to carry out paragraph (1).”.

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