American Hospital Association™
Advancing Health in America

Washington, D.C. Office
800 10th Street, N.W.
Two CityCenter, Suite 400
Washington, DC 20001-4956
(202) 638-1100

June 3, 2024

The Honorable Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Morgan Griffith
Chair
Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Kathy Castor
Ranking Member
Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chair McMorris Rodgers, Ranking Member Pallone, Chair Griffith and Ranking Member Castor:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, including our nearly 2,000 member hospitals that participate in the 340B Drug Pricing Program (340B program), the American Hospital Association (AHA) writes to express our strong support for the 340B program. The AHA urges Congress to protect this critical program as it has done for more than three decades. We oppose efforts that would diminish the value and scope of the 340B program and look forward to continuing to work with the Energy and Commerce Committee to ensure the 340B program remains strong for the patients and communities 340B hospitals serve.

VALUE OF THE 340B PROGRAM TO PATIENTS AND PROVIDERS

The 340B program for more than 30 years has successfully enabled eligible health care providers to stretch scarce federal resources to better serve the needs of their patients and communities, consistent with Congress' objectives. The savings 340B hospitals achieve through the discount purchasing program enable them to provide a range of programs and services that directly benefit their patients. The 2022 Supreme Court decision regarding the 340B program underscored this key tenet of the program, noting that the program enables hospitals and health care systems to "perform valuable services for low-income and rural communities." *Am. Hosp. Ass'n v. Becerra,* 596 U.S. (2022) (slip

op., at 13).[1] These savings are used to fund services like medication therapy management, diabetes education and counseling, behavioral health services, opioid treatment services and the provision of free or discounted drugs to patients. Each 340B hospital tailors its offerings to the unique needs of its patients and community. Notably, the spending on these programs often exceeds 340B savings, demonstrating the outsized commitment 340B hospitals have to their communities.

Indeed, the numbers illustrate that 340B hospitals provide substantial benefits to the patients and communities they serve. Hospitals provided nearly $42 billion in uncompensated care in 2019 alone, of which 340B hospitals roughly made up 68% of that number.[2] In addition, in 2020, 340B hospitals provided $84.4 billion in total community benefits, a nearly 25% increase from the prior year.[3] 340B hospitals are providing these high levels of uncompensated care and community benefits despite operating on razor-thin margins. And the community benefit efforts are only increasing: a recent study found that between 2017 and 2020, the growth in community benefits provided by 340B hospitals far outweighed the growth in their program savings.[4]

The 340B program is especially critical in the face of rising drug prices and persistent financial challenges for hospitals and health systems. A recent report by the U.S. Department of Health and Human Services (HHS) found that between January 2022 and January 2023, prices increased an average of 15.2% for over 4,200 drugs, many of which are used to treat cancer and other chronic conditions.[5] Compounding this problem is the practice by drug companies of introducing drugs onto the market at record high prices, crossing a median price of $300,000 in 2023.[6] These high drug prices are increasing at an alarming rate: this extraordinary median price for a new drug represents an increase of 35% from 2022. These drug prices and subsequent price increases — at the sole discretion of drug companies — consume the resources hospitals have available to care for their patients and communities, making the 340B program vital for patients and providers.

While the 340B program has grown over time, that growth has occurred largely due to factors outside of hospitals' control, including the dramatic growth in drug prices.and the increased reliance by providers on specialty drugs. Finally, as government regulations

---

[1] https://www.supremecourt.gov/opinions/21pdf/20-1114_09m1.pdf
[2] https://www.aha.org/2022-06-07-2022-340b-hospital-community-benefit-analysis
[3] https://www.aha.org/guidesreports/2023-10-19-340b-hospital-community-benefit-analysis#:~:text=Total%20community%20benefits%20for%20340B,midst%20of%20an%20unprecedented%20pandemic.
[4] https://www.aha.org/guidesreports/2024-03-12-340b-drug-pricing-program
[5] https://aspe.hhs.gov/reports/changes-list-prices-prescription-drugs
[6] https://www.reuters.com/business/healthcare-pharmaceuticals/prices-new-us-drugs-rose-35-2023-more-than-previous-year-2024-02-23/?utm_source=facebook&utm_medium=news_tab

have prioritized shifting certain procedures from inpatient to outpatient care, more medications have been subject to 340B discounts.

However, despite this growth, 340B discounts to eligible hospitals continue to comprise just a small share of drug companies' record high revenue. According to a recent study by Healthsperien, drug companies provided an estimated $46.5 billion in discounts to 340B hospitals in 2022 — roughly 3.1% of their global revenues and 7% of U.S. revenues that year.[7]

CONTRACT PHARMACY ARRANGEMENTS IMPROVE ACCESS TO CARE

Despite the 340B program's proven track record, drug companies continue to advocate to scale it back or drastically reduce the benefits that eligible hospitals and their patients receive from the program. **Efforts to decrease the scope of the 340B program *solely* benefit drug companies and their bottom lines at the expense of patient access to quality care and other community benefit programs.**

The most recent and egregious effort to undermine the program began in April 2020, when several drug companies, including many of the largest and most profitable drug companies in the world, began to deny discounted 340B pricing for outpatient drugs dispensed to 340B entities through contract pharmacies, dramatically limiting access to these discounted drugs. Today, over 30 drug companies have imposed these onerous restrictions or have outright denied access to 340B pricing through contract pharmacies. 340B hospitals' partnerships with local and specialty pharmacies have long been recognized by the government as a key component of the 340B program. These arrangements allow patients flexibility to access to their prescribed medications at their local community pharmacy or through local and mail-order specialty pharmacies. The accessibility of community pharmacies to many Americans presents a convenient, familiar and dependable source of care. This is especially true for those living in rural communities or who lack access to transportation.

Contract pharmacies currently provide health care access for large numbers of underserved patients. As of 2022, 80% of rural counties had a contract pharmacy with a 340B hospital, and contract pharmacies were located in 74% of counties with higher-than average uninsured populations, 81% of counties with higher-than-average unemployment and 82% of counties with high food insecurity.[8] For these reasons, these drug company restrictions are particularly pernicious and challenging for patients and 340B providers.

---

[7] https://www.aha.org/news/headline/2024-03-12-new-healthsperien-report-finds-340b-drug-discounts-are-small-share-drug-company-revenues
[8] https://www.aha.org/system/files/media/file/2024/02/340B-Contract-Pharmacies-Infographic-20240212.pdf

The AHA supports H.R. 7635, the 340B PATIENTS Act, legislation that would protect and strengthen the 340B program by codifying 340B providers' ability to use contract pharmacies to dispense 340B discounted drugs.[9] This bill would put an end to pervasive drug company restrictions on the use of contract or community pharmacy arrangements in 340B, which make it harder for many underserved patients to get vital medicines. While the AHA believes that the existing 340B statute already makes the drug company restrictions unlawful, this new bill makes it even clearer.

CONSOLIDATION IS NOT A RESULT OF THE 340B PROGRAM

Opponents of the program inaccurately claim 340B is a primary driver of hospital efforts to acquire physician offices. This is simply untrue. Hospital and provider consolidation is motivated by a number of market and other factors forcing hospitals and care providers to find more efficient and streamlined ways to deliver care. First, costs of caring for patients have increased dramatically and physicians are underpaid by the Medicare and Medicaid programs. In addition, the significant administrative burden imposed by insurance companies through unnecessary prior authorizations and claim denials have hampered physician offices' ability to devote time and resources to care delivery. Hospitals are strengthening ties with each other and outside physicians to more efficiently implement and facilitate new payment systems, quality improvement efforts, electronic medical record systems and other efforts to coordinate care across the health care continuum.

In addition, hospitals have not been the largest purchasers of physician practices in recent years. Private equity, physician groups and health insurers acquired the vast majority of physician practices from 2019-2023. Not only have these non-hospital entities acquired far more individual physicians and physician practices than hospitals, but those acquisition deals also had far greater total dollar values than those made by hospitals.[10]

CHILD SITES ALLOW HOSPITALS TO INCREASE ACCESS TO CARE

One of the most significant outgrowths of the increased use of technology and advances in clinical medicine is the shift from inpatient hospital care to outpatient hospital care. This shift has been accelerated by government regulations promoting the move of certain services that had been traditionally performed in the inpatient setting (especially low-cost and less complex services) to the outpatient setting. This trend is expected to continue, with some forecasting up to 19% growth in hospital outpatient visits over the next five

---

[9] https://matsui.house.gov/sites/evo-subsites/matsui.house.gov/files/evo-media-document/MATSUI_022_xml_final.pdf
[10] https://www.aha.org/system/files/media/file/2023/06/Private-Equity-and-Health-Insurers-Acquire-More-Physicians-than-Hospitals-Infographic.pdf

years.[11] These broader systemwide trends that have created an environment for increased demand for outpatient care and the critical need for so-called "child sites" of 340B entities.

Consistent with the goals of the 340B program, these outpatient child site facilities allow 340B hospitals to expand access to their services. The scope of services offered at child sites varies based on the needs of the community. In some cases, child sites offer a broad range of care; in other cases, they offer a single service, like an infusion clinic that provides patients with chemotherapy for cancer treatment.

We recognize that the use of child sites has been a concern for drug companies that claim misuse and unfettered growth of the 340B program. But those arguments are not well-founded. First, broader systemwide trends have hastened the need and demand for outpatient care, and the growth of child sites is simply an effort to meet that patient demand and expand access to outpatient care. Second, the exact number of 340B child sites has often been mischaracterized and miscalculated. The Health Resources and Services Administration (HRSA) mandates that covered entities register each and every site of care, even if they are located at the same physical address. Therefore, a 10-story building where each floor is a different outpatient department may need to be registered as 10 different child sites, though they share the same physical address and are essentially a single outpatient facility. As a result, the growth of child sites is not nearly what drug companies assert. Finally, as we highlight in the sections above, despite some growth in the 340B program and child sites, the discounts drug companies provide to 340B hospitals remains a small share of their revenues.

PROGRAM INTEGRITY AND TRANSPARENCY

340B hospitals and the AHA are committed to ensuring transparency in the program and recognize the important role it plays in promoting program integrity. Under the current framework, 340B hospitals already report a variety of information to demonstrate their efforts to care for underserved populations. Under the tax code, 340B hospitals report uncompensated care, charity care and other benefits provided to the communities they serve through both their annual Medicare cost reports and the IRS Form 990 required for tax-exempt organizations. In addition to these publicly available data, HRSA requires separate reporting during its annual 340B hospital certification process, including registration of child sites and contract pharmacies. Finally, the AHA has established 340B Good Stewardship Principles for our members, which ask 340B hospitals to voluntarily commit to publicly disclosing their 340B savings and sharing how those savings are

---

[11] https://www.businesswire.com/news/home/20210604005089/en/Sg2-Impact-of-Change-Forecast-Predicts-Enormous-Disruption-in-Health-Care-Provider-Landscape-by-2029

benefiting the communities they serve.[12] Over 1,300 340B hospitals have signed this pledge and many more hospitals continue to voluntarily share their use of 340B savings publicly, underscoring the collective commitment of 340B hospitals to transparency.

340B ACCESS ACT

Given the critical nature of the 340B program to health care across the country, the AHA strongly opposes H.R.8574, the 340B Affording Care for Communities and Ensuring a Strong Safety-net (340B ACCESS) Act. This bill would dismantle the 340B program and undermine the very purpose of the program — to allow eligible providers to expand access to care patients and communities across the country. In particular, the bill seeks to strip the program of its benefits for 340B hospitals and their patients. Among many problematic provisions in the bill, it seeks to limit hospital eligibility for the program, impose unworkable conditions of participation and create onerous and punitive compliance requirements. It also would limit the ability of states to exercise their delegated powers to regulate drug distribution, which several states have successfully used to counter drug company restrictions on the use of contract pharmacies. In essence, this bill would enrich drug companies by permitting them to abandon their 340B obligations and commitment to helping care for the nation's underserved communities.

CONCLUSION

We stand ready to work with the Energy and Commerce Committee to ensure the 340B program remains strong and provides 340B hospitals the resources they need to serve their patients and communities. Thank you for your continued attention to this issue. If you have any questions, please contact Aimee Kuhlman, vice president of advocacy and grassroots, at akuhlman@aha.org.

Sincerely,

/s/

Stacey Hughes
Executive Vice President

---

[12] https://www.aha.org/initiativescampaigns/2018-09-13-340b-hospital-commitment-good-stewardship-principles