Texas Hospital Association

Protecting Texas' 340B Drug Pricing Program

A revenue lifeline for safety-net hospitals – funded by manufacturers, not taxpayers.

340B is the price drug manufacturers pay for access to Medicaid: in exchange, they provide discounts to safety-net providers. **The discount is not taxpayer-funded—it redirects manufacturer revenue from corporate profits to safety-net care.** These hospitals incur the highest rate of unpaid hospital bills, and 340B helps with this burden. 340B is the manufacturer's skin in the game.

340B Targets Those Most in Need

340B is not open to every hospital – only 1 in 4 Texas hospitals are eligible. Eligibility itself proves need.

- Covered entities must be a qualifying Disproportionate Share (DSH) hospital[1], a Critical Access Hospital, a children's hospital or a freestanding cancer hospital.
- For-profit hospitals, corporate systems and venture-capital-owned facilities are ineligible by law.
- 78% of all 340B drug sales in Texas flow through DSH hospitals – the hospitals treating the sickest, lowest-income patients at the highest volume.
- Congress designed 340B so covered entities – not Washington or manufacturers – decide how savings are reinvested, allowing hospitals to fund the specific, often unprofitable care their communities need.



Without 340B: Cut Care, or Bill Taxpayers

340B revenue is what allows eligible hospitals to keep their doors open. When manufacturers restrict the program, hospitals face only two options:



- Cut services their patient population cannot otherwise access or afford, or
- Turn to taxpayers, state and local governments or cost shifting to replace the lost revenue.

Nearly half of Texas hospitals already operate on negative margins. Without 340B, another 30% would join them – turning a manufacturer's decision into a taxpayer and community problem.

Restricting 340B Doesn't Save Money – It Redirects It Back into Pharma's Pockets

Every dollar manufacturers keep out of 340B is a dollar taken from Texas' health care safety net and returned to some of the world's largest pharmaceutical companies — headquartered outside Texas. Restricting 340B transfers wealth away from Texas hospitals and patients and into pharmaceutical profits.

HOSPITALS USE THESE SAVINGS FOR:

- Free care for the uninsured
- Free or discounted drugs
- Behavioral health services
- Patient financial assistance
- Medication management
- Community and children's health programs
- Rural obstetrics
- Ambulance transport
- Affordable medications

Bottom line: 340B asks nothing of Texas taxpayers. *Manufacturers profit from Medicaid and share a fraction of that profit with the hospitals treating Texas' most vulnerable patients.* ***Protecting 340B protects care.***

[1] *Disproportionate share hospitals are federally defined as public or nonprofit hospitals having a disproportionate share adjustment percentage greater than 11.75% for the most recently filed cost report and recertified annually.*

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PROBLEM:

Despite three decades of the 340B Drug Pricing Program, pharmaceutical manufacturers continue to unilaterally rewrite the rules of a program they voluntarily chose to join – and whose terms they knew from the start. Participation in 340B is a manufacturer's choice, made in exchange for participation in the Medicaid program. Having accepted that bargain, manufacturers don't get to decide after the fact which parts of the program they'll honor. Despite repeated losses in court, they have not slowed their efforts to impose restrictions and limitations on the program on a company-by-company basis, based on nothing more than their own preference to limit the program's reach, leaving states to step in.



Two areas of particular concern are manufacturers' efforts to **restrict access to Health Resources and Services Administration** (HRSA)-approved contract pharmacies and to **impose administrative requirements that go beyond federal program requirements.** These practices are an attempt to reduce the program's scope – something only the federal government can do – and undercut the ability of safety-net hospitals to ***"stretch scarce public resources as far as possible."***

SOLUTION:

Texas has the opportunity that dozens of other states have taken to prevent manufacturers from rewriting the rules of the program to their liking. In doing so, Texas can protect safety-net healthcare here at home instead of padding profits elsewhere.

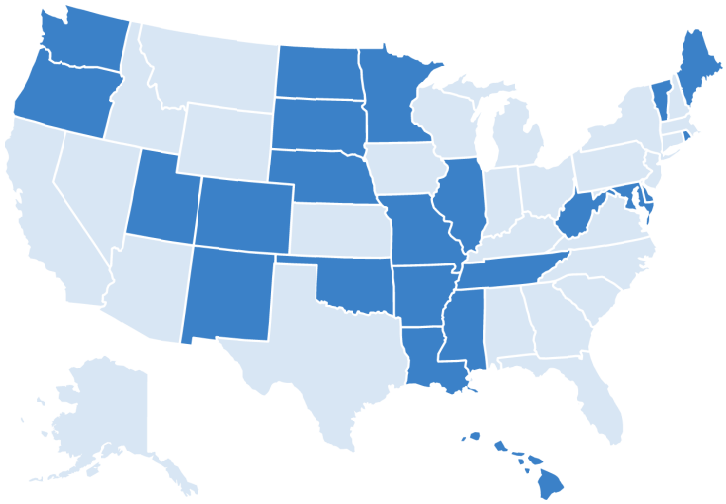
- **Protect hospitals' ability to use HRSA-approved contract pharmacies.** Contract pharmacies allow patients to fill prescriptions at a pharmacy near their home or work – not just at the hospital. Right now, some manufacturers refuse to provide the 340B discount at all if a hospital uses an outside pharmacy instead of dispensing drugs itself. Any pharmacy authorized by HRSA should not face restrictions by manufacturers.



- **Prevent drug companies from placing onerous administrative burdens on hospitals,** including vast amounts of information that go far beyond normal business records, piling paperwork and admin burden onto already stretched-thin hospitals. When hospitals fail to comply, drug companies refuse to provide discounted drugs – an illegal, predatory act – that eliminates an important revenue stream.
- **Prohibit PBMs from "pickpocketing" or siphoning 340B savings away from the safety net.** PBMs want to extract more from 340B hospitals than from non-340B, keeping revenues intended for healthcare as company profits. Texas should prohibit PBMs from reimbursing 340B hospitals at a lower rate than non-340B hospitals for the exact same drug.



STATES THAT HAVE PASSED 340B CONTRACT PHARMACY PROTECTION LEGISLATION



Program Growth: 340B is limited to outpatient drugs at qualifying covered entities. Growth in the program is linked to: (1) rising pharmaceutical costs, (2) growth in outpatient services and (3) the explosion of availability of an expensive class of drugs known as specialty drugs.

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