

## **Testimony Before the Ohio Senate Health Committee on SB 198**

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Chairman Huffman, Members of the Committee:

Thank you for the opportunity to provide testimony on SB 198, legislation that codifies and expands the federal 340B drug pricing program in Ohio. I've long argued that 340B is in much need of reform. It has strayed far from its original intent, becoming a scheme for 340b entities to profit from large markups on the drugs they get at government-directed discounts.

### **Program origins**

Congress created the 340B drug discount program in 1992 to help hospitals and healthcare providers purchase medicines at a discount to ensure access for vulnerable populations. Thirty-two years later, there is little evidence to show that the savings it generates are passed along to disadvantaged patients.

In 2010, legislators dramatically expanded the list of eligible providers under 340B, triggering a wave of provider consolidations. Major hospital chains seized an opportunity to extend the discount status allowed for one of their facilities to cover all of the hospitals and freestanding satellite facilities in their system. Today, under the management of the Health Resources Services Administration (HRSA), the program includes more than 50,000 sites, up from 8,100 in 2000.

Minnesota's Department of Health reported that large hospitals participating in the program netted at least [\\$630 million](#) in revenue in 2023 – and yet there is no available data showing that medicines are more affordable for vulnerable patients or that their health has meaningfully improved through the program.

This windfall hasn't caused 340B entities to act in more altruistic ways. As [The New York Times detailed in a 2022 expose'](#), hospitals routinely pocket 340B discounts and even divert them away from facilities in lower-income areas to those in more affluent communities, as the now notorious case of Bon Secours Mercy Health's neglect of Richmond Community Hospital demonstrated. In 2023, hospitals across the country diverted [\\$56 billion](#) in rebates. Even the Rev. Al Sharpton has [called out](#) this shocking abuse and urged stricter oversight of 340B facilities and modernization of the program.

### **Contract pharmacies**

Large non-profit hospitals aren't the only ones exploiting the program. The original legislation creating 340B didn't include contract pharmacies, but in 1996 provision was made for a single contract pharmacy through which 340b entities could dispense drugs.

But guidance – not a law or a regulation—issued by the federal government in 2010 allowed entities to contract with as many pharmacies as they wished. The number of contract pharmacies participating in the program consequently exploded by more than 2,400% since then, creating a sprawling web of partnerships that few regulators can adequately track. Contract pharmacies extend the reach of 340b entities, while taking their cut of the price spread along the way. In 2022 they earned an additional [\\$10 billion](#) (about 1 of every 6 dollars raked in through the program).

Often the contract pharmacies are far removed from the communities they ostensibly serve on the part of the hospital or grantee that contracts with them. In Oklahoma, for example, a study found that [56%](#) of contracted pharmacies for 340b hospitals were actually outside of the state of Oklahoma. Inexplicably, that didn't dissuade Oklahoma lawmakers from passing a bill similar to SB 198 earlier this year, though it has been rightly [enjoined](#) by the courts.

### **Reining in 340B**

The ill effects of 340B are well documented. Because of the incentives it creates to generate revenue for participants, hospitals and grantees alike, 340B promotes behaviors that run counter to the interests of patients. The program incentivizes healthcare facilities to issue more prescriptions and to prescribe the most expensive drugs. That means they prefer prescription drugs, instead of cheaper generics and biosimilar drugs. The net result is that the program drives the cost of healthcare upward as insurance, whether provided by the government or employers, expends more to cover the price spread on drugs. In short, it's inflationary.

The Trump administration is focused on cost-cutting measures to bring ballooning healthcare expenses under control and Make America Healthy Again. President Trump signed an executive order in April that called for significant changes to the 340B program, including site-neutral payment and drug price negotiation. The administration is also preparing to adjust hospitals' drug reimbursements to better reflect their acquisition costs. Meanwhile, the [courts](#) have agreed with drug makers that the use of contract pharmacies should not be completely unconstrained.

It makes little sense that while the federal government is working to rein in 340B in order to lower costs for Americans, Ohio is considering a bill to lock in and expand the program.