

PROTECT THE SAFETY NET BY PROTECTING 340B

Essential hospitals share a mission to care for people who face financial and social hardships, including low-income working families and the uninsured. These hospitals also serve the entire community with complex, lifesaving services, including level I trauma and neonatal intensive care. Essential hospitals reach outside their walls to meet people where they live and work with extensive outpatient networks and social supports.

But this mission comes at a price: Essential hospitals sustain substantially more uncompensated and under-reimbursed costs than other hospitals and operate with little or no margin while providing state-of-the-art, patient-centered care. In 2022, members of America's Essential Hospitals operated with an average loss of -9.0 percent compared with an operating margin of -2.8 percent at other U.S. hospitals.¹

340B: CRITICAL TO THE SAFETY NET

The 340B Drug Pricing Program is a key component of the patchwork federal support essential hospitals rely on to meet their safety net mission. Congress established the 340B program to enable essential hospitals and other covered entities “to stretch scarce Federal resources as far as possible, reaching more eligible patients and providing more comprehensive services.”² With their 340B savings, essential hospitals can target resources to services and programs that meet their community's unique challenges at nearly no cost to taxpayers:

- A West Virginia essential hospital relies on 340B savings to support a mobile mammography unit. The 340B program makes this vital screening available to patients who might otherwise lack access to it.
- 340B savings at an essential hospital in Illinois support an important housing initiative that provides subsidized housing and care managers for emergency department users who experience chronic homelessness.

- An essential hospital in Pennsylvania uses 340B savings for pharmacists to help manage the care of patients with hepatitis C. Clinical pharmacists provide important education and monitoring services that improve patient access to vital medications and enhance safety and health outcomes.
- A Florida essential hospital uses 340B savings to reduce the cost to patients of expensive prescriptions. The program reduced a patient's monthly cost of medication to treat a malignant brain tumor from \$3,000 to \$21.

But despite the 340B program's vital benefits for our health care safety net, drug companies have worked to weaken the program and dramatically restrict its scope. Congress must act now to safeguard this lifeline for low-income patients and essential hospitals.

RESTORE ACCESS TO COMMUNITY-BASED PHARMACIES

In recent years, drug companies have unilaterally restricted access to 340B drugs dispensed by pharmacies with which hospitals contract to extend the reach of 340B discounts. The drug companies have imposed onerous and illegal reporting requirements as a condition for 340B discounts or have ended contract pharmacy discounts entirely. These unlawful actions undermine 340B benefits for patients and financially strained essential hospitals only to pad manufacturers' bottom line. They jeopardize the health of disadvantaged patients who depend on their local pharmacies for access to lifesaving drugs for acute and chronic conditions.

Litigation by drug companies to defend their disgraceful actions continues in the federal courts with legal battles that come at the expense of patient care. To stem the damage of these shameful actions, eight states have passed laws as of December 2024 to ensure patients have access to lifesaving drugs through contract pharmacies. These state laws serve as a successful model for Congress.

On March 12, 2024, Rep. Doris Matsui (D-Calif.) introduced legislation, the 340B PATIENTS Act of 2024, that would provide crucial contract pharmacy protections. On Sept. 12, 2024, Sen. Peter Welch (D-Vt.) introduced the Senate companion bill. These bills aim to protect and strengthen the 340B program by codifying 340B providers' ability to use contract pharmacies to dispense 340B discounted drugs. We have officially endorsed both bills.

We urge Congress to look to the 340B PATIENTS Act as a model for providing crucial contract pharmacy protections.

PROTECT 340B FROM OTHER MANUFACTURER SCHEMES

Under the 340B program, manufacturers agree to offer discounts to safety net providers according to statutorily prescribed methods in exchange for the benefit of having their drugs covered by Medicaid and Medicare. Manufacturers must meet these statutorily required responsibilities; they cannot pick and choose which rules to follow.

However, some manufacturers want to force hospitals to purchase 340B drugs without their statutorily mandated discounts and receive discount savings as rebates after the manufacturer has reviewed the sales. Manufacturers are scheming to bypass congressional checks on power and seize authority from the Health Resources and Services Administration (HRSA), which must approve manufacturer audits of covered entities.

HRSA has declared these proposals illegal and, with bipartisan support in Congress, worked to block their implementation. In response, multiple manufacturers, including Bristol-Myers Squibb, Johnson & Johnson, and Eli Lilly, have sued HRSA. Despite these ongoing legal efforts, another manufacturer, Sanofi, intends to unilaterally impose a rebate model on Critical Access Hospitals, Rural Referral Centers, Sole Community Hospitals, and Consolidated Health Centers, beginning Jan. 6, 2025.

These rebate models run afoul of Congress' intent to help safety net providers stretch scarce federal resources. They would add unnecessary barriers to care, delay critical payments to health systems, and burden hospitals already operating on thin margins with new administrative costs.

We appreciate Congress' bipartisan opposition to

340B rebate proposals and urge lawmakers to work to ensure essential hospitals maintain access to upfront 340B discounts.

SUSTAIN 340B ACT

This year, Sens. John Thune (R-S.D.), Debbie Stabenow (D-Mich.), Shelley Moore Capito (R-W.Va.), Tammy Baldwin (D-Wis.), Jerry Moran (R-Kan.), and Ben Cardin (D-Md.) circulated a discussion draft of the SUSTAIN 340B Act, which would make significant changes to the 340B program. America's Essential Hospitals appreciates that the bill would prohibit manufacturer restrictions on 340B drugs dispensed by contract pharmacies. However, we are concerned about the bill's suggested changes to the definition of a patient, tighter restrictions on hospital clinics, and burdensome transparency requirements.

We urge Congress to continue working with stakeholders to protect and strengthen the 340B program.

OUR MESSAGE TO CONGRESS: PROTECT 340B

The 340B program continues to work as Congress intended. America's Essential Hospitals urges Congress and the administration to protect the 340B program and ensure all stakeholders comply with the law.

Endnotes

1. Miu R, Kelly K, Nelb R. *Essential Data: Our Hospitals, Our Patients; Results Of America's Essential Hospitals 2022 Annual Hospital Characteristics Survey*. America's Essential Hospitals. December 2024. <http://essentialdata.info>. Accessed Dec. 9, 2024.
2. H.R. REP. 102-384(II), p. 12.