

The Honorable John Thune
United States Senate
Washington, DC 20510

The Honorable Debbie Stabenow
United States Senate
Washington, DC 20510

The Honorable Shelly Moore Capito
United States Senate
Washington, DC 20510

The Honorable Tammy Baldwin
United States Senate
Washington, DC 20510

The Honorable Jerry Moran
United States Senate
Washington, DC 20510

The Honorable Ben Cardin
United States Senate
Washington, DC 20510

July 28, 2023

Submitted electronically to Bipartisan340BRFI@mail.senate.gov

Dear Senators Thune, Stabenow, Moore Capito, Baldwin, Moran, and Cardin:

The undersigned organizations, representing health care consumers, patients, and community organizers, are pleased to respond to your request for information (RFI) dated June 16, 2023. While some of our organizations have publicly spoken out on the 340B program in the past, for many of us, this is the first time wading into this nuanced issue.

We wanted to take this opportunity to echo the concerns you have heard from other stakeholders about ambiguity in the program, lack of oversight and accountability, and the degree to which 340B is currently fulfilling its intended purpose of serving vulnerable patients and communities. Many of our organizations have further consideration to do before we can endorse specific proposals, and we plan to share input to that end in the coming months as the legislative conversation continues.

Of immediate concern is the glaring lack of data and transparency in program. Despite the program being more than 30 years old, 340B entities are still not required to calculate and report the amount of 340B revenue they receive, nor how they reinvest those revenues in their communities – an astounding fact, considering the program now accounts for more than \$40 billion in sales each year.¹ We are concerned that the program's opaque nature, combined with a lack of requirement that discounts be shared with patients or used for charity care, means that 340B is not fulfilling its mission or meaningfully improving patients' lives. This is particularly troubling at a time when health care costs are rising and medical debt is widespread and growing.

Among our chief concerns with the 340B program are:

- **340B hospitals are free to engage in predatory practices** like balance billing and aggressive medical debt collection – even for uninsured patients and those with limited incomes.
- **Hospital eligibility criteria for 340B do not align with what makes a true safety-net provider**; the program and the health system as a whole have changed since 340B's creation in 1992 in a way that has fundamentally altered hospital economics and patient

¹ <https://www.statnews.com/pharmalot/2022/08/15/340b-pharmacies-hhs-astrazeneca-sanofi-lilly-pfizer-merck-gsk-novartis-abbvie/>

mix. Today, the 340B program includes hospitals like Mass General, the Cleveland Clinic, Duke Hospital, Cedars Sinai, and Johns Hopkins, some of the largest and wealthiest systems in the country.²

- **Growing evidence suggests that 340B creates a significant incentive for health system consolidation,**³ with hospitals able to purchase drugs at a steep discount on a given prescription compared to independent physician offices.⁴ This provides an incentive for hospitals to purchase these facilities, especially those in high-income areas where most patients are commercially insured, so the hospital system can increase the office's profitability.
- **There are no requirements that hospitals profiting from the program expand access to care** in vulnerable neighborhoods – as recent reporting in the *New York Times* has shown⁵ – or report how they use 340B funds.
- **The Government Accountability Office (GAO) has called numerous times over the past decade-plus for greater oversight** of the program by its governing body, the Health Resources and Services Administration (HRSA), with little progress made to improve program integrity.^{6,7}

All in all, 340B has expanded seven-fold in the last 15 years.⁸ Big hospitals systems account for most of that growth and three-quarters of 340B revenue,⁹ while the number of Americans experiencing medical debt is higher than ever.¹⁰ As Congress considers legislative reforms to the 340B program so it works better for the communities and patients it was intended to serve, we urge you to use this opportunity to help uninsured and underinsured patients access discounted medicines, affordable care, and benefits to their community promised through 340B.

Our organizations will be considering more specific policy solutions in the coming months and look forward to contributing to the discussion about how to preserve the mission of this vital program for the patients and communities we represent and our nation's true safety-net providers.

Sincerely,

Black Women Rising

Alliance for Aging Research

Asthma and Allergy Foundation of America

Biomarker Collaborative

Black Women's Health Imperative

² <https://340bopais.hrsa.gov/home>

³ <https://www.nejm.org/doi/full/10.1056/nejmsa1706475>

⁴ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6153182/>

⁵ <https://www.nytimes.com/2022/09/24/health/bon-securus-mercy-health-profit-poor-neighborhood.html>

⁶ <https://www.gao.gov/products/gao-11-836>

⁷ <https://www.gao.gov/products/gao-18-480>

⁸ <https://healthpolicy.usc.edu/research/the-340b-drug-pricing-program-background-ongoing-challenges-and-recent-developments/>

⁹ <https://www.hrsa.gov/opa/updates/2021-340b-covered-entity-purchases>

¹⁰ <https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings/>

Colorectal Cancer Alliance

Consortium of Multiple Sclerosis Centers

Exon 20 Group

FORCE: Facing Our Risk of Cancer Empowered

Free ME from Lung Cancer

ICAN, International Cancer Advocacy Network

MET Crusaders

Multiple Sclerosis Foundation

Patients Rising Now

PD-L1 Amplifieds

The Sumaira Foundation

Tigerlily Foundation

TOUCH, The Black Breast Cancer Alliance

Triage Cancer