SB986.340B.MPhA.pdf
Uploaded by: Aliyah Horton
Position: FAV

MPhA
MARYLAND PHARMACISTS ASSOCIATION

Date: March 8, 2024
To: The Honorable Pamela Beidle, Chair
From: Aliyah N. Horton, FASAE, CAE, Executive Director, MPhA, 240-688-7808
Cc: Members, Senate Finance Committee
Re: FAVORABLE - SB 986- State Board of Pharmacy - Prohibition on Discrimination Against 340B Drug Distribution

The Maryland Pharmacists Association (MPhA) urges a FAVORABLE report for **SB 986 - State Board of Pharmacy - Prohibition on Discrimination Against 340B Drug Distribution.**

- For more than three decades the 340 B Drug Pricing program has provided an opportunity for community pharmacies to contract with non-profit entities like Federally Qualified Health Centers, Ryan White Program Clinics and State AIDS Drug Assistance programs, Medicare/Medicaid Disproportionate Share Hospitals, children's hospitals and other safety net providers to dispense discounted medications to vulnerable patient populations.

- MPhA supports SB 986 to ensure the program is protected from unilateral decisions by drug manufacturers to limit pharmacy access points that connect to patients where they are.

- In 2022 the General Assembly passed, HB 1274 – Prescription Drugs – Pharmacy Benefit Managers and Purchasers – Federal 340B Program, to mitigate practices that sought to limit competition via restrictive networks and much more. This is another step to protect patient access.

- Drug manufacturers have increasingly reduced the ability for appropriate pharmacy coverage by limiting a covered entities ability to contract with pharmacies of their choosing. This directly impacts vulnerable and/or low-income populations, regardless of where they are in the state.

- We have heard concerns from our members regarding a growing list of pharmaceutical manufacturers that are unilaterally placing limits and other restrictions on contracting with interested pharmacies as noted below by:
    - Requiring a covered entity that doesn't have an in-house pharmacy to choose a single location contract pharmacy and/or requiring:
        - the single contracted pharmacy to be a specialty pharmacy; or
        - the single contracted pharmacy to be within 40 miles of the home site.
    - Refusing to ship 340-B priced drugs to contract pharmacies.
    - Refusing to offer 340 B pricing for drugs dispensed at all contract pharmacies unless the covered entity submits claims data.

You will hear testimony from both the covered entities and the contracted pharmacies regarding the specific challenges that these restrictions put on their ability to serve the patient populations the 340B Program seeks to support. As such, MPhA urges a favorable report for **SB 986 - State Board of Pharmacy - Prohibition on Discrimination Against 340B Drug Distribution.**

SB986_Prohibition on Discrimination Against 340B D

Uploaded by: Brian Sims

Position: FAV

Maryland
Hospital Association

March 7, 2024

To: The Honorable Pamela Beidle, Chair, Senate Finance Committee

Re: Letter of Support - Senate Bill 986 - State Board of Pharmacy - Prohibition on Discrimination Against 340B Drug Distribution

Dear Chair Beidle:

On behalf of the Maryland Hospital Association's (MHA) member hospitals and health systems, we appreciate the opportunity to support Senate Bill 986, which would ensure equitable access to essential medications for all Marylanders by prohibiting discrimination against 340B drug distribution.

By preventing limits or restrictions on the acquisition or delivery of 340B drugs, covered entities can generate savings, allowing them to continue providing countless other services to meet the unique needs of the vulnerable populations they serve. The 340B program plays a vital role in ensuring that pharmaceutical costs, a significant cost-driver, do not compromise the operational stability and sustainability of these safety-net providers.

Furthermore, SB 986 aligns with our commitment to ensure all communities across the state can access affordable and necessary care and resources for healthy lives. Community health centers play a vital role in the health care ecosystem by providing access to primary care. Many community health centers already face financial challenges, and without the protections of this bill, pharmaceutical manufacturers can impose additional discriminatory practices that may further strain their viability. Loss of the vital services these centers provide may increase emergency department visits, heighten unnecessary hospital service utilization, worsen hospital throughput, and raise patients' out-of-pocket costs. This bill upholds the principles of equity and access across the health care spectrum and ensures Marylanders continue to receive high-quality and affordable care.

For these reasons, we request a ***favorable*** report on SB 986.

For more information, please contact:
Brian Sims, Vice President, Quality & Equity
Bsims@mhaonline.org

SB986.LOS.hf.20240307.pdf
Uploaded by: Heather Forsyth
Position: FAV

CANDACE MCLAREN LANHAM
Chief Deputy Attorney General

CAROLYN A. QUATTROCKI
Deputy Attorney General

LEONARD J. HOWIE III
Deputy Attorney General

CHRISTIAN E. BARRERA
Chief Operating Officer

ZENITA WICKHAM HURLEY
Chief, Equity, Policy, and Engagement

PETER V. BERNS
General Counsel

ANTHONY G. BROWN
Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

WILLIAM D. GRUHN
Chief
Consumer Protection Division

Writer's Direct Dial No.
(410) 576-6513
hforsyth@oag.state.md.us

March 7, 2024

TO: Senator Pamela Beidle, Chair
Senate Finance Committee

FROM: Health Education and Advocacy Unit

RE: SB 986 – State Board of Pharmacy – Prohibition on Discrimination Against 340B Drug Distribution (**Support**)

The Health Education and Advocacy Unit writes in support of Senate Bill 986, which prohibits a manufacturer, wholesale drug distributor, or third-party logistics provider, or an agent or affiliate thereof, from limiting or restricting the acquisition or delivery of a 340B drug and makes a violation an unfair, abusive or deceptive trade practice within the meaning of the Consumer Protection Act.

The 340B Drug Pricing Program provides discounts to covered healthcare entities that serve uninsured and low-income patients, and helps these providers keep costs low even as prescription drug prices rise. As a condition of having their drugs covered by Medicaid and Medicare Part B, Congress required drug manufacturers to enter into Pharmaceutical Pricing Agreements (PPA) with the HHS Secretary to limit the amount public hospitals, community health centers, and others serving indigent patients have to pay drug manufacturers for medications. These PPAs require the companies to offer each covered medication to providers "at or below the applicable ceiling price."

In 2020, various drug manufacturers began unilaterally imposing limitations, restrictions, and exclusions on covered entities that use contract pharmacies, potentially depriving Marylanders, including some of our most vulnerable residents, who rely on them with essential healthcare resources they need.

The bill thus is aimed to stop 340B manufacturers from imposing limitations and exclusions on covered entities that use contract pharmacies to administer their 340B drugs to patients. This bill is necessary, among other reasons because "[c]ontract pharmacies are vital to covered entities and the success of the 340B Program because contract pharmacies are the vehicle by which many covered entities dispense affordable prescription drugs for outpatient treatment and recovery, particularly for patients who continue to face significant barriers to care. The 340B Program was primarily concerned with patients' access to prescription drugs for recovery outside the traditional hospital settings—namely, at home."[1]

We note there are several pending cases challenging violations issued by the Health Resources and Services Administration ("HRSA") against 340B manufacturers who have limited access to contract policies. HHS and HRSA have taken the position that 340B manufacturers must offer and provide 340B discounts to contract pharmacies. The Maryland Office of the Attorney General (MOAG) has joined multi-state amicus briefs in cases involving the drug manufacturers' challenges to HHS's administration of the 340B Drug Pricing Program and the use of contract pharmacies by 340B covered entities in support of the HHS and HRSA positions. The outcome of several cases are pending on appeal. Despite these challenges, our office supports SB986 and its efforts to keep prescription drugs affordable to patients who would not otherwise have access to them.

We ask the Committee for a favorable report on Senate Bill 986.

End Note

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or sbrantley@oag.state.md.us.

[1] Corrected Brief of Amici Curiae States, including Maryland, *Novartis Pharmaceuticals Corp. v. Johnson*, 2022 WL 1644996 (D.C. Cir. May 23, 2022).

2024_02_22 SB 986 - MD.pdf
Uploaded by: John Hassell
Position: FAV

AHF AIDS HEALTHCARE FOUNDATION

February 22, 2024

The Honorable Clarence Lam
Maryland State Senate
Annapolis, Maryland 21401

Re: Senate Bill 986 – SUPPORT

Dear Senator Lam,

AIDS Healthcare Foundation supports your legislation, Senate Bill 986, which would prohibit drug companies from restricting the use of contract pharmacies in their shameful effort to undermine the purposes of the federal 340B Drug Pricing Program. AIDS Healthcare Foundation is proud to serve over 1,000 Marylanders at its Ryan White HIV clinics in Baltimore and Temple Hills. AHF operates 70 Ryan White Clinics in 16 states, the District of Columbia and Puerto Rico, caring for approximately 100,000 people, over half of which are living with HIV. We turn no one away in our mission to provide cutting edge medicine regardless of the ability to pay. Our clinics cannot keep that promise if the 340B program is restricted.

The savings from 340B enable our comprehensive care model – from testing and linking patients to medical care to ensuring they remain in care and adherent to a tailored medication regimen – that no other payor source provides for people living with HIV. Neither the commercial nor public sector employs case managers and specialty pharmacists that monitor patients all along the HIV care continuum. Due to 340B savings, Ryan White patients achieve viral suppression rates at almost 90%, compared to the national average just north of 50%. Our superior health outcomes would not be possible without 340B.

340B savings function as a health and wellness multiplier for the HIV response in Maryland. Contract pharmacy restrictions inhibit that response. Drug companies want geographic strictures placed on where Marylanders fill their prescription medications. Such limitations will reduce the number of 340B eligible prescriptions, benefiting drug company balance sheets at the expense of patient health. 340B is working as intended. The program serves patients who depend on lifesaving services from nonprofit safety net healthcare providers. The drug industry is working nonstop to strangle 340B. AHF thanks you for introducing Senate Bill 986. We look forward to seeing it signed into law. Let us know how we can provide support. I can be reached at (202) 774-4854 and at john.hassell@ahf.org.

Sincerely,

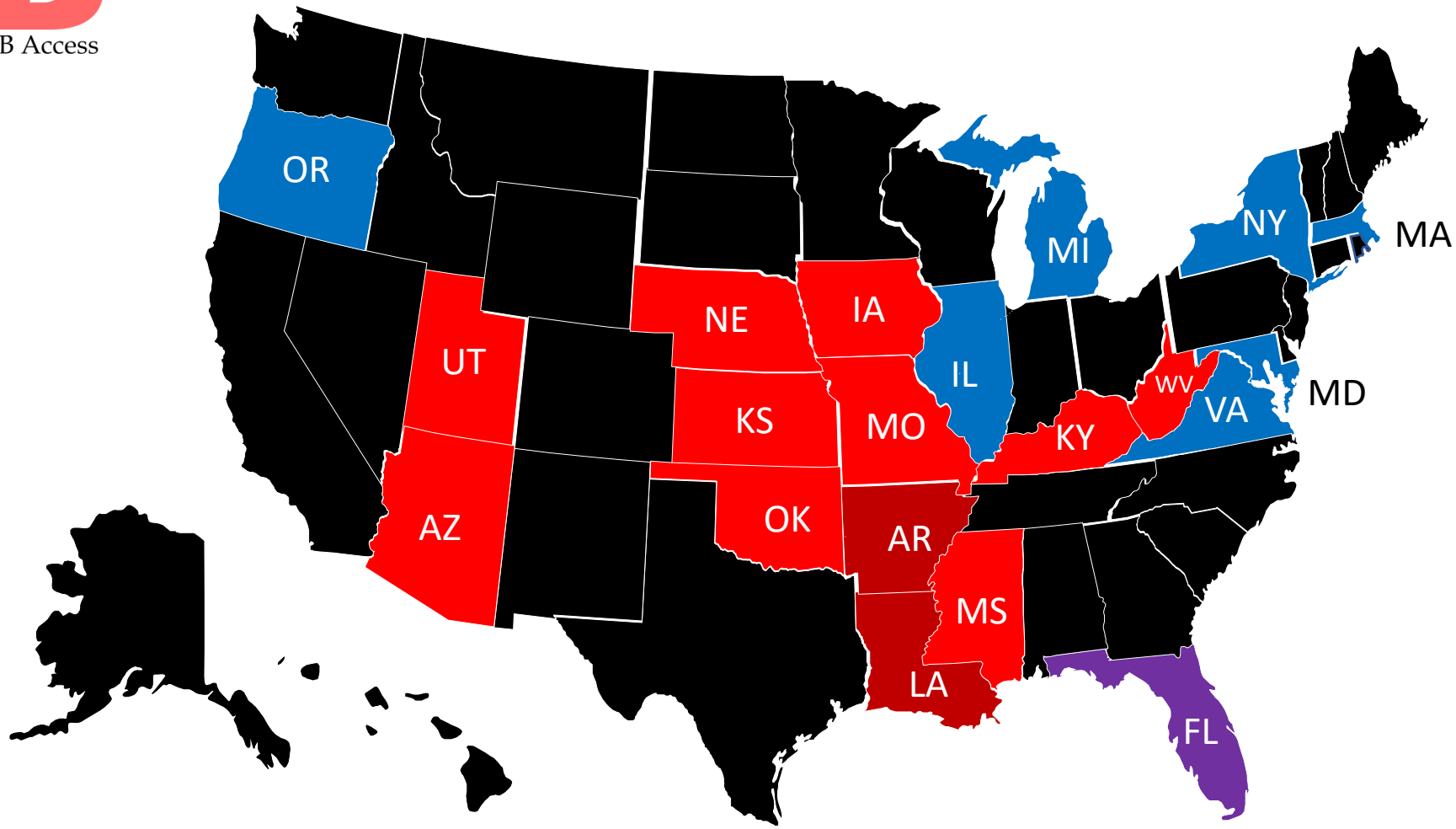
John D. Hassell
National Director of Advocacy

Contract Pharmacy Legislation Map 2-21 (D1103971).
Uploaded by: Nora Hoban
Position: FAV

Ryan White Clinics 340B for 340B Access

STATE BILLS TO PROTECT CONTRACT PHARMACY ARRANGEMENTS

POWERS
POWERS PYLES SUTTER & VERVILLE PC
ATTORNEYS AT LAW



2023 ENACTED BILL: **RED**: 2

2024 PENDING BILLS: RED: 10 BLUE: 7 PURPLE: 1

(color denotes state voters' party preference)

February 21, 2024

Contact: *Peggy.Tighe@PowersLaw.com*

SB 986 Testimony_Nora Hoban_MACHC.pdf
Uploaded by: Nora Hoban
Position: FAV

MID-ATLANTIC ASSOCIATION OF
COMMUNITY HEALTH CENTERS

TO: Senator Beidle, Chair
Members, Finance Committee

FROM: Nora E. Hoban
Chief Executive Officer

DATE: March 8, 2024

RE: **SUPPORT** – Senate Bill 986 – *State Board of Pharmacy – Prohibition on Discrimination Against 340B Drug Distribution*

The Mid-Atlantic Association of Community Health Centers (MACHC) is the federally designated Primary Care Association for Delaware and Maryland Community Health Centers. As the backbone of the primary care safety net, Federally Qualified Health Centers (FQHCs) are united by a shared mission to ensure access to high-quality health care for all individuals, regardless of ability to pay. FQHCs are non-profit organizations providing comprehensive primary care to the medically underserved and uninsured. Maryland's sixteen health centers serve more than 340,000 patients annually. Eighty-seven percent live at or below 200% of the Federal Poverty Level, and more than two-thirds of patients are from historically marginalized racial and ethnic groups. MACHC supports its members in the delivery of accessible, affordable, cost-effective, and quality primary health care to those most in need. To this end, MACHC **supports** Senate Bill 986.

Health equity starts with legislation that supports access to primary and preventative care for all Marylanders. Since 1992, the 340B Drug Pricing program has helped patients access affordable medications. Contract pharmacy arrangements are an essential part of the program. Participating 340B providers, who by definition treat a disproportionate share of low-income patients, contract with community pharmacies. These contractual arrangements allow patients to pick up prescription medication from their local community pharmacy without a return visit to the 340B center or hospital, which can be time-consuming, especially for patients in rural areas. The arrangement eases patient access, improving medication adherence and health outcomes.

Since 2020, twenty-nine pharmaceutical manufacturers began limiting the number of pharmacies that 340B covered providers can work with to receive discounts on 340B drugs, undermining the program and putting vulnerable communities at risk. In September 2020, Eli Lilly announced that covered entities without in-house pharmacies must choose a single contract pharmacy. AstraZeneca and Sanofi followed suit on October 1. Over the next three years, the list of manufacturers with restrictions grew to include Merck, Gilead, United Therapeutics, and others. The restrictions most often limit 340B providers to dispensing discounted drugs from just one contract pharmacy. The loss of access to 340B medications is not unique to Maryland. Eighteen states throughout the country have introduced similar legislation this year.

Earlier this year, a federal Senate working group, including Senator Cardin, released a Request for Information and draft bill language to update the 340B statute. Separately, the National Association of Community Health Centers is working with PhRMA through a partnership called ASAP 340B to examine legislative solutions. While federal stakeholders and legislators are working to strengthen the 340B program, the differences between covered entities' and PhRMA's position regarding the number of contract pharmacies remain. State action is imperative.

Manufacturer contract pharmacy restrictions threaten the primary care system, putting population health progress at significant risk. Without 340B savings, safety net providers will have to choose which essential wraparound services they provide — would a patient with Type 2 diabetes still have access to nutrition counseling or retinal eye screening, or would a patient with opioid use disorder be able to receive transportation to an appointment or dental services. When 340B savings cannot be reinvested in essential services, patients suffer.

In addition to protecting access to affordable medications, the 340B program supports healthcare entities covered by the program to invest in wraparound services that facilitate care delivery, including medication adherence programs, discounted labs, maternal and dental care, transportation, and more. Such services address barriers to care regardless of race, ethnicity, education, or poverty. Community health centers manage a variety of payors to stretch scarce federal resources to those who need the most care. As non-profit organizations, centers must balance different revenue streams while remaining financially stable, and financial considerations drive what services can be offered. The 340B program is an essential part of this balance. Manufacturer restrictions impact the financial viability of health centers, and providers are forced to cut access to critical services at a time when Maryland is being watched as a leader with the total cost of care model. In October, two health center locations in Cherry Hill and Brooklyn closed after suffering financial losses from pharmaceutical restrictions.

Maryland's pursuit of health equity cannot backslide further. Senate Bill 986 will prevent pharmaceutical manufacturers from imposing restrictions on the number of contract pharmacies where patients of covered entities can receive discounted 340B medications. In protecting the federal 340B statute in Maryland, this bill will protect medication access and health center services for all Marylanders. As such, **MACHC requests a favorable report on Senate Bill 986**.

FACT: *Drug companies are restricting 340B contract pharmacy use.*

- Manufacturers have greatly increased restrictive policies, as shown in letters to safety net providers, press statements, and legal filings.
- Contract pharmacy restrictions undermine the original intent of the 340B program by removing 340B discounts to safety net providers while drug companies still have access to the huge pool of Medicare Part D and Medicaid patients.

FACT: *Safety net providers use contract pharmacies to expand access to services.*

- Safety net providers use contract pharmacies to ensure patient access to prescription drugs and other necessary health care services. Examples of services supported with 340B funds are medication adherence programs, discounted lab programs, OB/GYN and dental services, and investments to address social determinants of health, including transportation and nutrition services.
- The vast majority of patients served by 340B safety net providers are low-income, uninsured or underinsured, from racial and ethnic minority groups, or otherwise medically vulnerable.
- The 340B program is a vital lifeline for the patients served by safety net providers.

FACT: *The 340B program can be legislated by states in relation to distribution.*

- Each state has a right to protect citizens' public health by regulating drug manufacturers doing business in their state.
- States have been regulating 340B drug distribution since the program's inception.
- Two states, Arkansas and Louisiana, passed laws in 2023 to regulate drug companies in this way; dozens of states are following suit in 2024.

FACT: *The Health Resources & Services Administration has tools to prevent abuse of the 340B program.*

- Congress carefully defined 340B eligibility based on providers' history and legal obligation to treat all patients regardless of ability to pay.
- The federal government has several tools, including audits, to ensure program integrity.
- The possibility of an audit comes with strong incentives to comply with all program requirements. Audit findings can cause covered entities to pay back manufacturers, be subject to a corrective action plan, or, even worse, be removed from the program entirely.

FACT: *The total costs of the 340B program are growing because of the growth in drug costs.*

- In 2022, 340B covered entities purchased more than fifty-three billion dollars of 340B drug sales. These are NOT 340B savings.
- The number of covered entities participating in the program has been steady.
- Program growth can be attributed mainly to a sharp increase in drug prices charged by manufacturers.

FACT: *Pending litigation has so far favored states.*

- The drug industry may sue the state, but state litigation costs pale compared to the state's losses if manufacturers' unilateral restrictions are left unchecked.
- State and federal taxpayers are being forced to pay for necessary patient services that would otherwise be funded by 340B savings.
- The results of pending litigation so far have favored states, not industry.

FACT: *State legislation is needed as federal solutions are examined.*

- While federal efforts are important to the long-term success and sustainability of the 340B program, timely state legislation to protect access to covered entities is essential.

For More Information:
NHoban@machc.com

SB0986_EPIC_Wienner_FAV.pdf
Uploaded by: Stephen Wienner
Position: FAV

Testimony offered on behalf of:

EPIC PHARMACIES, INC.

IN SUPPORT OF:
SB0986 – State Board of Pharmacy – Prohibition Against 340B Drug Distribution

Senate Finance Committee
Hearing: 3/8/2024 at 1:00 PM

EPIC Pharmacies, Inc. **SUPPORTS SB0986 – State Board of Pharmacy – Prohibition Against 340B Drug Distribution.**

340B Program Brief Description (skip the next 4 paragraphs if already discussed by other proponents):
The 340B prescription pricing program was a compact developed in 1992 between drug manufacturers and the government. In return for gaining access to the largest payer program in the country, Medicaid, manufacturers had to offer very steep discounts to defined safety-net providers also known as covered entities.

The covered entities use access to these highly discounted medicines for two main reasons:

- To directly reduce the price for outpatient medications for the populations they serve.
- To generate income for the covered entity to allow that entity to stretch limited federal resources, expand health services for patients, and to expand the number of patients that they serve.

The covered entities are non-profit entities that provide desperately needed health care services for the neediest patents in our communities. They include Federally Qualified Health Centers (FQHC) that treat unhoused patients, Ryan White programs that treat HIV positive patients, some hospitals, and other safety net providers.

Covered Entities have often focused on other areas of healthcare and services besides becoming pharmacy operators and will often engage in a contractual relationship with a retail pharmacies to provide the prescription counseling, dispensing, and inventory services for their clients and patients.

Mt. Vernon Pharmacy provides contract pharmacy services to four covered entities (2 FQHCs, and 2 Ryan White programs). The longest and still ongoing relationship with Health Care for the Homeless started in 1999 and is still ongoing after 24 years.

Common Questions and Answers:

-Why is this legislation necessary? In 2020, Eli Lilly, today the most valuable drug manufacturer in the world, enacted restrictions, and limitations on the ability of covered entities to acquire these highly discounted medications. Astra Zeneca, Novo Nordisk, and Sanofi soon joined Lilly. It's curious how many of the initial manufacturers were all insulin makers. The limitations often restrict covered entities to utilize only one contract pharmacy, they sometimes mandate that the covered entity provide dispensing

data to the manufacturer or an agent of the manufacturer, and sometime even try to restrict the sale of the discounted inventory to uninsured patients only. These restrictions directly and adversely affect the revenue of covered entities and their ability to provide safety net services that their patients rely on. Because the government was slow to respond, other manufacturers piled on; to date there are thirty-one manufacturers that are restricting access to 340B medications to covered entities in one form or another. For a link to all of the manufacturer restrictions and manufacturer letters go to: https://www.amerisourcebergen.com/provider-solutions/340b-advisory-services/340b-manufacturer-updates

-Why are the manufacturers placing restrictions on the program? The manufacturers argue that these discounted medications are being diverted to patients that are not patients of the covered entity, and/or the manufacturer is being double hit by both providing the medication at a deep discount on the front end as well as paying large rebates on the back end. The reality is much easier to understand. The manufacturers would much prefer to make large profits on these meds by selling them at high prices rather than the discounted 340B prices that they are obligated to provide. Barriers to 340B access directly profit manufacturers and directly harm covered entities.

-Didn't the government place rules and regulations on the 340B program to maintain the integrity of the program? Yes. There are two main rules that govern the program:

1. The patient must be a patient of the covered entity.
2. The prescription claim must not be paid for by the Medicaid Fee for Service Program, because that program legislatively is entitled to the largest rebate that a manufacturer may provide. I.E. No double dip on Medicaid Fee for Service!

-Can 340B inventory be used on insured prescription claims? Yes. The only restriction is that this inventory cannot be used for Medicaid Fee for Service patients. The inventory can be used for uninsured, MCO, Commercially Insured, and Medicare Part D claims.

-Aren't MCO claims a form of Medicaid. Don't manufacturers need to demand dispensing data to prevent duplicate Medicaid discounts? The Maryland Department of Health mandates that any MCO claim that utilizes 340B inventory must have an electronic claim identifier on the claim to identify that 340B inventory was used and prevent the department of health from asking the manufacturer for back-end rebates. In short, the Maryland Department of Health already had a fix for manufacturer concerns going back to 11/1/2014.

-I guess the manufacturers had no recourse but to restrict access to 340B medications and place these barriers? Since the start of the program both covered entities and contract pharmacies have been subject to audits by both HRSA and drug manufacturers. On the few manufacturer-initiated audits that have occurred, there were very few instances found of 340B product diversion or misuse, however it is quite a bit more economical for manufacturers to simply restrict legitimate access than to perform audits.

-Why not wait for these issues to work their way through the federal courts? It's already going on four years with no federal court final resolution in site. Covered entities are losing their ability to serve our neediest citizens. Our community simply cannot afford to wait.

-Isn't this a federal manner. Even if this bill passes will the manufacturers abide by it? The only states where manufacturers are abiding by their original 340B obligations are Arkansas and Louisiana because those states had the foresight to enact these covered entity protections against the drug manufacturers.

-Does this really affect patient access? After all, don't the manufacturers allow the covered entity to designate a single contract pharmacy to receive 340B inventory? In my personal instance, one of my

pharmacies has a robust delivery practice. The other location which is located at the covered entity building does not. Some of those patients are homebound and have difficulty traveling. When we use the pharmacy location that has delivery service, we cannot use some 340B inventory from the delivery location pharmacy because some manufacturers only allow us to utilize 340B inventory at the other designated location. Or to be more precise, Insulins and GLP-1s from Eli Lilly, Novo Nordisk, and Sanofi Aventis among other meds that are delivered to patients do not generate 340B revenue for my covered entity.

For other entities and contract pharmacy relationships, sometimes the patient lives quite a distance from the one designated pharmacy, so the entity might contract with some chain pharmacies to service those distant patients.

That lost revenue will result in less services to the patients that need those services most. And obviously the covered entities will make larger revenue requests from the State of Maryland to make up for the revenue shortfall.

EPIC Pharmacies are local businesses that serve communities that might not have the economic footprint that a larger chain pharmacy demands. We support legislation that supports local safety net providers and the patients and communities that both we and they serve.

EPIC Pharmacies thanks the sponsor, Senator Lam, and respectfully requests the Committee's **FAVORABLE SUPPORT FOR SB0986.**

Should the Committee require any additional information, please contact me or Caitlin McDonough, caitlin.mcdonough@mdlobbyist.com or 410-366-1500.

Respectfully,

Steve Wienner, RPh
EPIC Legislative Committee
Mt. Vernon Pharmacy and Mt. Vernon Pharmacy at Fallsway
mtvernonpharmacy@gmail.com – 410-207-3052

SB0986_UNF_MTC_State Board of Pharmacy - Prohibiti
Uploaded by: Kelly Schulz
Position: UNF

MARYLAND TECH COUNCIL

TO: The Honorable Pamela Beidle, Chair
Members, Senate Finance Committee
The Honorable Clarence K. Lam

FROM: Kelly Schulz
CEO

DATE: March 8, 2024

RE: **OPPOSE** – Senate Bill 986 – *State Board of Pharmacy – Prohibition on Discrimination Against 340B Drug Distribution.*

The Maryland Tech Council (MTC) writes in **opposition** to *Senate Bill 986: State Board of Pharmacy – Prohibition on Discrimination Against 340B Drug Distribution*. We are a community of nearly 800 Maryland member companies that span the full range of the technology sector. Our vision is to propel Maryland to become the number one innovation economy for life sciences and technology in the nation. We bring our members together and build Maryland's innovation economy through advocacy, networking, and education.

This bill would prohibit a drug manufacturer from taking actions to limit or restrict the acquisition or delivery of a 340B drug. The Federal 340B drug program was designed to help low-income patients receive necessary medications they might not be able to afford. Under this program, drug manufacturers have provided billions of dollars in steep discounts on medicines to health clinics and qualifying hospitals on the premise that those facilities would ensure patients have access to the medicines. Unfortunately, reality has not matched the original purposes of the 340B program. Instead, hospitals and large chain pharmacies have been using the 340B program to boost profits by obtaining deeply discounted drugs under 340B and then charging uninsured patients and insurance companies higher prices and keeping the difference.

MTC believes this is an issue that should be resolved by Congress at the Federal level. Congress should pass measures to ensure the 340B benefits are reaching their intended recipients and that there is accountability in the program to ensure it is not being abused. This legislation does not address the main problem with 340B, which is to ensure the program is being utilized as Congress intended. For this reason, we respectfully request an unfavorable report.

MD 340B Joint Letter_Senate Finance.pdf
Uploaded by: Pam Langford
Position: UNF

Chair Beidle and Vice Chair Klausmeier:

Studies show that more than 50% of Maryland adults experience healthcare affordability burdens. Healthcare access and expenses are a major source of stress for Maryland residents with more than 20% of Marylanders living below 200% of the federal poverty level. Our organizations represent patients, healthcare providers, and other key parts of the healthcare ecosystem that should work solely to meet the needs of the patients it serves. We've collectively worked together throughout the years to improve access to affordable, innovative treatments and serve as a voice for the local community.

While we appreciate the intent of proponents of this bill to improve healthcare access in Maryland, **unfortunately, we feel Senate Bill 986 and House Bill 1056 are premature.**

- **The 340B Program fails to lower patient drug costs.** Through the program, drug manufacturers provide more than $54 billion in discounted product. Yet only 1.4% of patients received a discount on their 340B prescriptions at contract pharmacies through the program.
- **The 340B Program doesn't ensure benefits reach low-income patients.** Problems with the 340B Program arose when HRSA released a guidance letter in 2010 that allowed covered entities to contract with an unlimited number of pharmacies for 340B prices. Since then, the number of contract pharmacies has increased 8,000%. Sadly, as the program has grown, the percentage of these pharmacies in underserved and economically disadvantaged areas has decreased. Growth of 340B contract pharmacies is instead increasingly concentrated in "affluent and predominantly White neighborhoods," and 340B contract pharmacy growth is declining in "socioeconomically disadvantaged and primarily non-Hispanic Black and Hispanic/Latino neighborhoods." The minimal prescription discounts that are currently available through the 340B Program are not available to the patients who most need them. Today in Maryland, there are 894 contracts between Maryland 340B hospitals and pharmacies nationwide, and only 17% of contract pharmacies are located in medically underserved areas.
- **340B Program expansion is premature while the program is under federal investigation.** Last September, Senator Bill Cassidy opened an investigation into how 340B revenue is spent to help patients. Since then, the investigation has requested information on revenue spending from 340B covered entities and contract pharmacies. Additionally, a working group of six bipartisan Senators released a legislative discussion draft that aims to reform the 340B Program and ensure it is helping patients the way policymakers originally intended.

A recent investigative piece by the New York Times, Profits Over Patients: How a Hospital Chain Used a Poor Neighborhood to Turn Huge Profits, explores the federal 340B program and how it's hurting access to healthcare by eliminating basic medical services, especially in poor and underserved areas, which is the exact opposite of the program's original intention to help in-need communities get the services they need. The Richmond Times Dispatch did a follow-up article with legislators working on solutions to add additional oversight of federal programs and ensure not-for-profits are meeting commitments to the communities they serve.

Efforts are underway at the federal level to address the disparities that currently exist in the 340B Program and we urge you to wait until those changes are made before taking any action at the state level. We need to be sure the program works as originally intended – to improve access and health equity in Maryland. Thank you for all you do to improve the quality of lives for those who are lucky enough to call Maryland home.

Respectfully,

AiArthritis
American Senior Alliance
Biomarker Collaborative
Coalition of State Rheumatology Organizations
Exon 20 Group
HEALS of the South
ICAN - International Cancer Advocacy Network
Lupus and Allied Diseases Association, Inc.
MET Crusaders
PD-L1 Amplifieds

CC: Maryland Senate Finance Committee