



Maryland
Hospital Association

April 1, 2024

The Honorable John Thune
United States Senate
511 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Debbie Stabenow
United States Senate
731 Hart Senate Office Building
Washington, DC 20510

The Honorable Shelley Moore Capito
United States Senate
172 Russell Senate Office Building
Washington, DC 20510

The Honorable Tammy Baldwin
United States Senate
141 Hart Senate Office Building
Washington, DC 20510

The Honorable Jerry Moran
United States Senate
521 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Benjamin L. Cardin
United States Senate
509 Hart Senate Office Building
Washington, DC 20510

Re: SUSTAIN 340B Act Discussion Draft

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

On behalf of the Maryland Hospital Association's (MHA) member hospitals and health systems, we appreciate the opportunity to comment on the Supporting Underserved and Strengthening Transparency, Accountability, and Integrity Now and for the Future of (SUSTAIN) 340B Act bipartisan discussion draft. The 340B Drug Pricing Program (340B program) is an important program that allows health care providers to stretch scarce federal resources to better serve the needs of their patients and communities. As drug prices continue to rise, it is important for Congress to protect the 340B program to help hospitals care for their patients and communities.

We applaud efforts to preserve the 340B program and protect 340B providers from harmful practices instigated by certain drug companies, insurers, and pharmacy benefit managers.

In recent years, certain drug companies, insurers, and pharmacy benefit managers (PBM) have unilaterally imposed policies that hinder 340B providers' ability to help their patients and communities. A group of pharmaceutical manufacturers, for instance, have placed restrictions on 340B providers' use of contract pharmacies. And some insurers and PBMs have discriminated against 340B providers by setting requirements, reimbursement rates, or other terms that are different from those applied to non-340B entities. We support the discussion draft's proposals to formalize the contract pharmacy arrangement and protect 340B providers from harmful discriminatory practices. For additional details, we refer you to American Hospital Association's [response letter](#) to other proposals and requests for information contained in the discussion draft.

Congress should join Maryland and protect the 340B program.

The importance of the 340B program to patients, communities, and providers is well-recognized in Maryland. In 2022, the Maryland General Assembly enacted [legislation](#) that prohibits PBMs from discriminating against 340B providers and contract pharmacies. In the current legislative session, a [bill](#) has been introduced to prohibit drug companies from limiting access to 340B drugs. Many of these same protections are echoed in the discussion draft. While courts have [upheld the legality of state laws](#) to protect aspects of the 340B program, legal challenges from manufacturers persist. We urge Congress to join Maryland and protect the 340B program so 340B providers can continue to care for our patients and communities.

Congress should recognize the uniqueness of the Maryland model and provide appropriate exceptions.

Maryland has a unique Total Cost of Care (TCOC) Model that is the result of a partnership with the Centers for Medicare & Medicaid Services. The novelty of the TCOC model requires a regulatory framework that makes Maryland different from the rest of the nation. The Maryland Health Services Cost Review Commission, for instance, has the authority to regulate rates charged by hospitals.

We commend the discussion draft's recognition of varying state regulatory structures. The recognition in Section 5(12)(B)(i)(VI) that a state may have health facilities cost review commissions is an encouraging sign, and we urge future proposals to consider the uniqueness of the TCOC model and offer appropriate exceptions to allow Maryland to continue its innovative approach.

MHA appreciates the opportunity to provide comments. Please contact Steven Chen, director of policy, at schen@mhaonline.org, if you have any questions.

Sincerely,



Melony G. Griffith
President & CEO