

## WHA Urges Policymakers to Strengthen 340B Program, Hold Drug Makers Accountable

On July 28, WHA responded to Sen. Tammy Baldwin and a bipartisan group of five other U.S. Senators' [request for information \(RFI\)](#), seeking feedback on policies to provide stability and appropriate oversight on the [340B prescription drug discount program](#).

WHA urged policymakers to utilize restraint and exercise existing authority provided by Congress to ensure 340B program integrity prior to seeking new regulations on the program, citing how heavily regulated hospitals are to begin with. Specifically, WHA asked policymakers to help Health Resources and Services Administration (HRSA) hold drug companies accountable for actions they have taken to restrict access to 340B discounts for drugs distributed at community contract pharmacies. WHA noted its support for HRSA finalizing its proposed Administrative Dispute Resolution to help level the playing field and assist in such disputes.

Given the dramatic increases in prescription drug prices recently, WHA noted that 340B discounts were one of the few tools hospitals have to offset otherwise unchecked growth in prescription drug costs. A [September 2022 report](#) found that drug prices increased more than 3X the rate of inflation from 2021-2022, and some by as much as 500%—and all apart from the loss of most 340B contract pharmacy discounts.

"While HRSA has admirably attempted to use civil monetary penalties to force drug companies to honor discounts at contract pharmacies as required by the 340B program, drug companies have used their vast resources to file lawsuits to block HRSA's actions," said WHA President and CEO Eric Borgerding. "Therefore, Congress should clear up any confusion by clarifying explicitly in statute that contract pharmacies are an extension of the 340B program and that drug companies may not deny or restrict these discounts for hospital patients receiving their drugs from a contract pharmacy," Borgerding said.

WHA also urged policymakers to pass legislation such as [the Protect 340B Act](#), which would prohibit pharmacy benefit managers (PBMs) and insurers from discriminating against 340B hospitals or other covered entities by reimbursing them less just because they acquire 340B drugs at a discount. PBMs have used these policies to pocket 340B savings Congress intended for hospitals, and some health insurers have developed dangerous "white bagging" policies that can lead to delays in patient care and higher medical bills for patients.

Lastly, WHA urged federal lawmakers to resist the temptation to heap additional regulations and reporting burdens on 340B hospitals given that some have called for additional transparency in the program. WHA noted that its members already devote significant resources toward compliance to avoid duplicate discounts or discounts to ineligible patients and undergo extensive internal audits.

"While hospitals would no doubt find a way to comply with additional regulations, that compliance will nearly always come at a cost and divert valuable resources that hospitals would rather dedicate to direct patient care," said Borgerding. Instead, Borgerding recommended policymakers attempt to level the compliance playfield, noting that HRSA already conducts over 200 audits of 340B hospitals annually compared to six audits of drug manufacturers.

"Notably missing from most transparency discussions are proposals to increase transparency on how drug companies set their prices, as well as whether drug manufacturing policies and tactics are at all to blame for persistent drug supply chain shortages. We firmly believe the goal of the program should continue to be to stretch scarce federal resources as far as possible, reaching more eligible patients and providing more comprehensive services. It seems better understanding the role of drug manufacturers' pricing policies would help further advance that goal," Borgerding said.

You can read WHA's full comment letter [here](#). Contact WHA Vice President Federal & State Relations [Jon Hoelter](#) with questions.

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