Texas Business Group on Health
TBGH

Dear Members of the House Committee on Insurance,

The undersigned organizations, led by the Texas Business Group on Health, represent private employers and public health care purchasers deeply rooted in the state of Texas and allies concerned about the unchecked growth and lack of transparency in the 340B drug pricing program. We are writing to share our concerns about HB 3265, as part of our commitment to introducing more transparency and lowering healthcare costs.

Founded in 1985, the Texas Business Group on Health is a statewide business association dedicated to promoting healthcare innovation, accountability, and value in support of supports a healthy, productive workforce. Our members represent nearly 3 million covered lives through nearly 200 Texas employers and their regional employer coalitions, including Dallas-Fort Worth Business Group on Health, Houston Business Coalition on Health, and San Antonio Business Group on Health.

TBGH recognizes and supports the 340B program's original intent from 1992: to increase access to affordable medicines for low-income patients through health centers and core safety-net hospitals. However, we are concerned that the program's distortive effects drive up costs for employers and working families without passing these savings on to patients. As it stands, 340B allows covered entities to buy prescription medicines at steep discounts and sell them to employers at much higher prices, encouraging provider consolidation and the use of high-cost medicines and exacerbating the rising cost of health care for employer-sponsored insurance.

Background on 340B

At its core, 340B allows qualifying health systems to purchase prescription medications at significant discounts, sell them at much higher prices, and pocket the proceeds rather than passing the discount onto patients. Originally designed to target fewer than 100 safety-net hospitals and specialized clinics, the program has grown exponentially. While there are federal requirements around the use of 340B funds that ensure affordability for patients at Federally Qualified Health Centers and other "grantees," these make up a small portion of the program.[1] Unfortunately, the program has no guardrails on how 340B hospital systems should use the proceeds or any requirements to benefit low-income or uninsured patients,[2] meaning patients can be charged cost-sharing based on the full list price of the medicine at the pharmacy counter, and their insurance plans and employers are required to pay the full price as well.

[1] https://www.hrsa.gov/opa/updates/2023-340b-covered-entity-purchases
[2] https://jamanetwork.com/journals/jama-health-forum/fullarticle/2821579

As a result, hospital systems have capitalized to make 340B the second-largest federal drug program, with nearly $66 billion in discounted purchases in 2023 alone.[1] **Today, one in four hospitals in Texas participates in 340B.**[3] While hospitals have raised concerns about the impact on rural providers, it must be noted that nearly 80% of 340B sales are flowing through so-called "DSH hospitals," many of which are large, profitable metropolitan health systems , which includes some of the nations' most profitable health systems such as Memorial Hermann and Baylor Scott & White here in Texas.[4] The latter of which continuously reports increased operating margins year over year.[5]

340B contributes to cost increases with a glaring lack of transparency

Employers in Texas and across the country are increasingly worried that 340B is in many cases falling short of its original mission. A growing body of evidence shows that 340B contributes to the rising cost of health care that continues to cripple Texas businesses and working families. At the same time, Texas hospitals face no requirements to report how 340B savings generated help patients.

Despite the original intent of serving uninsured and low-income patients, a recent report found that as many as half of Texas 340B disproportionate share hospitals generate more in 340B profits than they spend on charity care.[6] Although numerous nonprofit hospitals and major health systems in Texas were found to be "outperforming many of the area's Fortune 500 companies," Tarrant and Dallas counties have the highest concentrations of medical debt among the nation's 20 most populous counties.[7]

Prescription drug mark-ups

Despite its frequent reference as a "costless" program to taxpayers, 340B continues to raise costs and leave employers on the hook for higher prices. North Carolina's State Treasurer recently found that 340B hospitals in the state had billed the state employee health plan an average markup of 5.4 times their acquisition cost for oncology drugs.[8]

Incentives for prescribing more and higher-cost medicines

The profit potential from 340B leads to a preference by participating hospitals to use more expensive, brand-name drugs, which generate a larger 'spread' but limit the adoption of lower-cost biosimilar alternatives,[9,10] raising costs for employers and their employees. It has been found that the average cost per prescription for a commercially insured patient

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[3] https://www.tha.org/wp-content/uploads/2022/04/THA_Takeaways_340B.pdf
[4] https://www.hrsa.gov/opa/updates/2023-340b-covered-entity-purchases
[5] https://www.beckershospitalreview.com/finance/baylor-scott-white-healths-operating-income-up-25-in-fiscal-2024/
[6] https://340breform.org/340b-hospitals/texas/
[7] https://www.texastribune.org/2022/09/30/dallas-fort-worth-medical-debt/
[8] https://www.nctreasurer.com/news/press-releases/2024/05/08/state-treasurer-folwell-releases-report-finding-north-carolina-340b-hospitals-overcharged-state
[9] https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2022.00812
[10] https://communityoncology.org/hospital-340b-drug-profits-report-feb-2021/

was more than 150% higher at a 340B hospital than a non-340B hospital.[11] Research indicates that 340B hospitals mark up medicines at substantially higher rates than independent physician offices.[12] This merely exacerbates the inflated prices for hospital drugs and services that Texas employers already are paying.

Lost rebates

Employers use rebates as a tool to offset high drug costs and keep premiums down. However, drugs purchased through 340B do not receive any rebates, despite the low costs that hospitals are paying for the drugs. For the nearly half of Texas residents[13] covered by employer-sponsored plans and their employers, 340B increases health care costs by $26 per beneficiary due to lost rebates, raising overall health care costs in the state by $353 million per year.[14] However, this impact is not limited to the private sector: Plans covering state and local government employees in Texas – and therefore, taxpayers – experience $57 million in lost rebates each year as well.[12]

Impact on consolidation

340B provides strong incentives for hospitals to acquire independent outpatient physician offices in wealthier and better-insured areas than the parent hospital, designate them as 340B "child sites," and maximize profits by tapping into the employers and working families they insure. In doing so, they can boost profits by maximizing the spread they receive from their mark-ups through the expansion of their 340B reach to more commercially insured patients. Taking advantage of "child sites," as many hospitals in Texas do, gives 340B hospitals both a competitive advantage and a vested interest in securing as many facilities as possible to expand their 340B reach through horizontal consolidation.

Opportunities for chain pharmacy and PBM profit

340B encourages hospitals to establish networks of external retail chain and mail-order pharmacies – a practice not grounded in statute. These networks are expanding in increasingly wealthy, predominantly white, and better-insured areas, with no obligation to serve low-income communities or offer affordable prices. In doing so, health systems can further augment the number of prescriptions they purchase at 340B discounts and profit from. Texas is no exception; 340B hospitals in the state have 3,654 contacts with pharmacies, 33% of which are out-of-state pharmacies. Methodist Dallas Medical Center, for instance, has 207 contracts with pharmacies, 16% of which are out-of-state.[4]

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[11] https://www.milliman.com/-/media/milliman/pdfs/2022-articles/9-13-22_phrma-340b-commercial-analysis.ashx
[12] https://jamanetwork.com/journals/jama-health-forum/fullarticle/2806517
[13] https://www.kff.org/other/state-indicator/total-population/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D
[14] https://www.iqvia.com/-/media/iqvia/pdfs/us/white-paper/2025/iqvia-cost-of-340b-to-states-whitepaper-2025.pdf

The Impact of HB 3265

Employers and lawmakers in Texas have made strides toward greater transparency in health care to help lower costs. **However, the proposed legislation represents a step backward and would exacerbate 340B's upward pressure on costs without improving access or affordability for low-income patients.**

The bill hinders necessary transparency, undermines efforts to eliminate waste in the system, and harms employers' bottom line. HB 3265 would simply enshrine the status quo in law, locking in 340B's expansion via provider consolidation, distorted prescribing patterns, and profit-maximizing pharmacy networks. We cannot support HB 3265, as it would raise costs for employers and working families while benefiting the corporate health systems' chain pharmacy and pharmacy benefit manager partners rather than the patients and safety-net facilities it was intended to serve.

We instead urge the Texas legislature to first strengthen transparency and reporting requirements in 340B before locking in such a significant and concerning element of the program. Legislators interested in meaningful transparency should look to Minnesota's *340B Covered Entity Report* (November 2024).[15] The report found that just 13% of the state's covered entities, large non-profit health systems, accounted for 80% of revenue. Further, three large hospitals in Minneapolis accounted for 37% of revenue in the state. Through these expanded reporting requirements, Minnesota can better understand the impact of legislation like 3265. Unfortunately, they acted too soon and passed a bill guaranteeing this contract pharmacy revenue stream before fully understanding the gravity of it. Without a similar mechanism, Texas is in the dark and risks repeating that mistake; helping large health systems, chain pharmacies and PBMs further expand their profits, without any guarantee of benefit to the communities the program was intended to serve.

Conclusion

While 340B has played a crucial role in improving access to care, especially among community health centers and other federal grantees, we believe the program has significantly outgrown its original intent. As health care premiums continue to rise, supporting legislation that increases costs is untenable. We urge the Committee to oppose HB 3265 and instead seek reforms that promote transparency and accountability, ensure affordability for patients, and limit 340B's inflationary effects on health care spending for working families.

Sincerely,

Texas Business Group on Health
Dallas- Fort Worth Business Group on Health
Houston Business Group on Health

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[15] https://www.health.state.mn.us/data/340b/docs/2024report.pdf

National Alliance of Healthcare Purchaser Coalitions
Preferred Benefits Plus
Webber LLC