STATEMENT

PhRMA
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In Opposition to HB 2057
340B Claims Identification Prohibition
February 18, 2025

Position: The Pharmaceutical Research and Manufacturers of America ("PhRMA") respectfully opposes House Bill 2057

HB 2057 prohibits the use of 340B "claims modifiers" for 340B drugs or any other billing or reporting requirements to identify 340B claims, which has the potential to undermine program integrity by further increasing the risk of duplicate discounts and diversion within the 340B program.

A 340B claims modifier is an electronic "tag" used in electronic transactions between PBMs and pharmacies. This can be done in real-time when a pharmacy sends claims information to a PBM, occurring within seconds. Claims modifiers are cited as a best practice for identifying 340B claims by the Centers for Medicare & Medicaid Services ("CMS").[1] Data exchange has always been essential to effective functioning of the 340B program, ensuring that participating organizations comply with statutory prohibitions against diversion and Medicaid duplicate discounts. With the rise of health information technology, data exchanges have become more seamless for pharmacy providers and occur within the usual course of processing a prescription claim.

Claims modifiers provide more accurate data that can help identify cases of diversion, when a covered entity requests a 340B discount for someone who is not an eligible patient.

According to GAO, two-thirds of HRSA audit findings on diversion were related to the dispensing of 340B drugs to ineligible patients at contract pharmacies.[2] "Tagging" 340B claims with a unique identifier and sharing this information throughout the dispensing supply chain helps to ensure program alignment and transparency from end to end and is the first step to ensuring patients can benefit in the way the program is intended.

CMS requires hospitals participating in the 340B program to use claims modifiers, which enable the Agency to "track the utilization of 340B acquired drugs and biologicals…"[3] Hospitals have had several years of experience with 340B claims modifiers, which were first utilized in 2018. CMS has underscored that use of these modifiers would not impose additional burden on hospitals.

Lack of Transparency Threatens the Safety-Net

Transparency is fundamental to sound program governance. 340B stakeholders should all support greater transparency efforts in ensuring the 340B program is helping underserved patients better access medications. It is important for policymakers to ensure the 340B program truly benefits the safety net that serves our underserved communities in Oregon and throughout the country. Unfortunately, over the three decades after it was originally created, the 340B program has deviated from its original mission to

1 Centers for Medicaid and Medicare Services. CMCS Informational Bulletin. Best Practices for Avoiding 340B Duplicate Discounts in Medicaid. January 2020.
2 Government Accountability Office. "Federal Oversight of Compliance at 340B Contract Pharmacies Needs Improvement," June 2018.
3 87 Fed. Reg. 71974

instead benefit entities such as hospitals, for-profit pharmacies, and other middlemen, leaving behind the patients that the program is meant to serve and threatening the sustainability of the program for true safety-net entities that provide much needed care to vulnerable communities.

In 1992, when the 340B program was established by federal law, it was meant to help safety-net entities access affordable drugs to treat their low-income and uninsured patients. Due to weak oversight, the 340B program has expanded in a way that has allowed covered entities to divert to the benefit of the entities' bottom-line money intended to help patients get better care and afford their medicines. As a result, the 340B program has changed and grown dramatically since its establishment, while charity care at 340B hospitals has declined below national averages.[4] In fact, 68% of 340B hospitals in Oregon are below the national average for charity care levels.[5]

340B stakeholders should all support greater transparency efforts in ensuring the 340B program is helping underserved patients better access medications. **For the reasons stated above, PhRMA respectfully opposes HB 2057 and appreciates your consideration prior to advancing this bill.**

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The Pharmaceutical Research and Manufacturers of America (PhRMA) represents the country's leading innovative biopharmaceutical research companies, which are devoted to discovering and developing medicines that enable patients to live longer, healthier and more productive lives. Over the last decade, PhRMA member companies have more than doubled their annual investment in the search for new treatments and cures, including nearly $101 billion in 2022 alone.

4 AIR340B Coalition, "Left Behind: An Analysis of Charity Care Provided by Hospitals Enrolled in the 340B Discount Program," November 2019, https://340breform.org/wp-content/uploads/2019/11/AIR340_LeftBehind-v6.pdf.
5 https://340breform.org/340b-hospitals/oregon/