NATIONAL TAXPAYERS UNION

Monday, May 5, 2025

The Honorable Deb Patterson
Chair, Senate Committee on Health Care
900 Court Street, NE
Salem, OR 97301

Dear Chair Patterson and Members of the Senate Committee on Health Care,

On behalf of National Taxpayers Union (NTU), America's oldest taxpayer advocacy organization, I respectfully urge you to **oppose HB 2385**, a contract pharmacy mandate that fundamentally changes how the federal 340B Drug Pricing Program functions in Oregon.

The 340B program was initially designed to provide affordable medications to low-income and uninsured patients. However, since its inception in 1992, the program has become highly controversial, with mounting evidence that certain providers are exploiting its structure to generate revenue rather than assisting vulnerable patients as intended.

What does this mean? The 340B program has expanded significantly over the years with little transparency or accountability, allowing entities that receive discounted drugs from manufacturers to profit from the price difference, rather than passing those savings on to patients.

Instead of serving the most vulnerable, as the program was intended — those living in low-income areas — there has been a proliferation of 340B pharmacies in more affluent neighborhoods. These expansion pharmacies are owned by for-profit Pharmacy Benefit Managers (PBMs) and chain drug stores. A 2024 Pioneer Institute Report found that almost half of the 340B Oregon pharmacies supposedly serving the poor are in affluent neighborhoods. Additionally, Oregon 340B hospitals provide less charity care (1.78%) than the national average (2.28%)

I urge you to carefully scrutinize the potential financial implications of **HB 2385** for Oregon's state-funded healthcare programs. Data from other states point to serious financial considerations that you should consider before supporting **HB 2385**. In Utah, a recently released PEHP fiscal analysis of 340B contract pharmacy mandate legislation found that this policy could increase pharmacy costs for the state's public employee health program. The report conservatively expects a 10% increase in drugs purchased through the 340B program, resulting in a loss of $1,987,674 in rebates - a cost the state will need to cover.

In North Carolina, 340B entities are billing insured patients in state health plans at higher costs than their discounted acquisition costs and copays are based on a list price, not the discounted price. A recent report released by North Carolina State Treasurer Dale Folwell shows the extent to which hospitals in the 340B Program in North Carolina are overcharging cancer patients through the state's health plan. Patients are being charged at an average rate greater than five times the cost of cancer drugs. These higher rates are being borne on the backs of patients and all taxpayers in North Carolina. This report only considers cancer medications, so the full extent to which patients and taxpayers are burdened is unknown. Currently, the North Carolina State Health Plan faces a $32 billion unfunded healthcare liability.

Last November, the Minnesota Department of Health (MDH) analyzed data from Minnesota providers participating in the 340B Drug Pricing Program. Their report details how much 340B hospitals are profiting from the program. Providers earned a net revenue of at least $630 million in 2023, which may only represent half of the total. The state's largest 340B hospitals benefited the most from the program.

Given these serious financial concerns, I encourage you to ask for a more detailed fiscal and revenue analysis than what has been provided to you already. I would extensively question reports indicating that **HB 2385** would have no revenue impact and minimal fiscal impact on your state's budget.

One final — and not minor — reason to **reject HB 2385** is the very real constitutional concern this bill raises. The 340B Drug Pricing Program is wholly governed by federal law. Therefore, states are not in a position to create additional requirements for the program. Based on our research, some half-dozen states are currently embroiled in lawsuits over this issue. Also, just this past December, the U.S. District Court for the Southern District of West Virginia enjoined that state's 340B law once it appeared likely that the plaintiffs would succeed in their claim that the federal law superseded state law.

Rather than expanding the 340B program without oversight, I suggest you focus on transparency and accountability within the program, especially for hospitals and pharmacies

participating in the state's health plan. The 340B Drug Pricing Program is a federal program, and lawmakers should not codify state law around a deeply flawed system. NTU has long advocated for meaningful reform at the federal level rather than state-level mandates that will ultimately increase costs for taxpayers.

Given these serious concerns, I strongly urge you to **oppose HB 2385** and instead focus on evaluating and addressing the deficiencies of the 340B program. I humbly offer this advice as both a former pediatric nurse practitioner who worked with the very patients for whom the 340B Drug Pricing Program was intended and as a former Wisconsin state senator who understands how contentious and challenging it is to allocate taxpayer dollars wisely.

Please do not hesitate to contact me with further questions or concerns.

Respectfully submitted,

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