

**Senate HELP Committee  
Full Committee Hearing  
Perspectives on the 340B Drug Discounting Program  
March 15, 2018 at 10:00AM  
430 Dirksen SOB**

The Senate Health, Education, Labor, and Pensions (HELP) Committee held a hearing Thursday on the 340B drug discount program. The following served as witnesses:

- **Bruce Siegel, MD, MPH**, President and Chief Executive Officer, America's Essential Hospitals
- **Lori M. Reilly**, Executive Vice President, Policy, Research & Membership, Pharmaceutical Research and Manufacturers of America
- **Sue Veer, MBA**, President and Chief Executive Officer, Carolina Health Centers, Inc.
- **Joseph M. Hill III, MA**, Director, Government Relations Division, American Society of Health-System Pharmacists

In opening statements, **Ranking Member Patty Murray (D-WA)** said the 340B program stretches scarce resources to serve vulnerable populations and low-income patients. Those savings can help those providers stretch their resources even further. She said that President Trump sabotaged an attempt to ensure drug companies play by the rules. Senator Murray said HRSA has taken steps to conduct greater education and audits to prevent people from taking advantage of the program, and also drafted a rule to make sure drug companies were giving the full required discount. She said the Trump Administration has taken a step back in cutting the 340B program.

**Chairman Lamar Alexander (R-TN)** said that there were two goals for the hearing: determine the purpose of 340B and whether there should be changes to the law to better fulfill the purpose. He said that Congress did not make the purpose of the 340B program clear when they created the program in 1992. He said that there have been reports that suggest that while 340B does provide real benefits, there needs to be more clarity around what the program allows and does not.

**Questions:**

**Senator Cassidy (R-LA)** said that everybody recognizes that there are patients in community health centers and safety net hospitals that appropriately benefit from 340B, but he pointed to problems with the program. He cited studies that showed "no evidence that 340B revenue went to help lower income patients." And he said that 340B eligibility prompted hospitals to treat fewer Medicaid patients without increasing quality.

**Senator Hassan (D-NH)** pointed out the importance of 340B to rural academic medical centers, particularly in New Hampshire. She asked witnesses to explain the role of 340B not only in providing charity care, but in community health benefits like fighting the opioid epidemic. Mr. Siegel said that 340B hospitals play unique roles in their communities. Opponents of the program criticize it as only existing to provide charity care, but the money saved from 340B discounts goes toward providing under-reimbursed care to Medicaid patients, burn units, trauma care, housing, food security... a whole range of things that make communities better and more vibrant. He said that "charity care is just one measure." Senator Hassan called on pharma to advocate for transparency in their own prices as they do in terms of 340B discounts.

**Senator Tina Smith (D-MN)** said that drug prices are the number one economic issue she hears about in Minnesota. She asked Ms. Reilly why the American people shouldn't be outraged that they're paying so much for prescription drugs when revenues for drug companies are going up. Reilly answered that more needs to be done to ensure patients can access their medicines. She continued to emphasize that insurance companies and hospitals are not mandating that the discounted medicines we're providing are reaching the patients.

**Senator Kaine (D-VA)** suggested another hearing to engage with HRSA on 340B. Senator Alexander answered that the HELP committee will hold at least one more hearing on the issue and will try to invite HRSA. Mr. Siegel told Senator Kaine that the recently proposed cut to 340B is unique to hospitals for services that they are already providing. He explained, "It basically says, if you have more than your share of Medicaid or poor people, we are going to pay less under Medicare. We are going to punish you." He said the argument is that it will save beneficiaries money, but 80% of beneficiaries will see no change because of supplemental insurance. He said it is a targeted cut that effects 340B hospitals and called it unconscionable. Ms. Reilly countered that pharma's discounts don't change under this policy. She said that while it is a cut to hospitals in one sense, 75% of hospitals come out at the same level because of redistributed funds. 87% of the profit is coming from outside the cut. Senator Kaine replied that the 25% hits safety net hospitals. Mr. Hill added that he would be concerned that the cut would impact the ability of hospitals to utilize pharmacy services.

**Senator Warren (D-MA)** presented a series of statistics to argue against pharma's point that the 340B discount program contributes to higher drug prices. She said that the discounts "work out to a whopping 1.3% loss to drug companies" which is "a tiny fraction of the many billions of dollars they pull down every year in profits."

**Senator Jones (D-AL)** asked Mr. Siegel whether he recognizes that there need to be some changes and oversight to the program and if so, whether he has ideas. Siegel responded that he absolutely recognizes that there needs to be oversight, but that safety net hospitals are truly good stewards of the program. He explained that there are annual audits and "you don't randomly wander into the 340B program." Senator Jones pointed out that the drug maker's complaints about the discounts they are expending for the program are "not computing for people of Alabama, where 80% of hospitals in 340B are underwater and trying to stretch Medicaid dollars."

Ms. Reilly continued to emphasize that we don't know whether these dollars reach patients because the requirements placed on community health centers do not apply in a hospital setting. Mr. Siegel told **Senator Young (R-IN)** that America's Essential Hospitals support transparency, but was less clear on whether he would support direct reporting. Young pressed Siegel on responsible reporting requirements.

**Senator Casey (D-PA)** called for greater transparency in the program and asked whether we should look to all forms of economic contribution and burden facing participants rather than one specific measure [charity care] that doesn't accurately reflect the circumstances.

Senator Cassidy said that the emphasis should be on the patient rather than the hospital. He asked Mr. Hill what has to be sacrificed on the care side in order to shift the discount straight to patient, and whether he would support a law that would require hospitals to pass their 340B discounts directly to patients. He also asked Mr. Hill whether his members would report on 340B and Hill responded that the

Society of Health-System Pharmacists is having internal discussions on how something like that might work.

**Senator Baldwin (D-WI)** said she has long supported 340B and asked Ms. Reilly if she would support the Fair Drug Pricing Act she cosponsored with Senator John McCain, designed to enhance accountability.

Senator Alexander pressed the panel to provide numbers on the total amount Americans spend on prescription drugs, and the percentage and total that goes to safety net hospitals and clinics for the purposes of 340B. He was surprised when Siegel told him that he didn't know how much of the money saved goes directly to patients. Alexander said "I am very sympathetic to 340B.... I suspect that the so-called tax we put on prescription drugs in order to provide extra funds for safety nets and clinics is something I would approve of, but I think it's a reasonable question to ask that if the money is not going directly to lower cost of prescriptions filled, where is it going? What category is it paying for?" He said that if hospitals don't want Congress to restrict how they utilize 340B savings, hospitals should be transparent about how the money is currently being used. He asked Siegel whether he would support legislation calling for transparency, and Siegel answered that he would be concerned about any legislation that singles out hospitals and clinics.

Alexander emphasized that he needs whatever info is already available about how much of the money saved through the discount goes to something other than reducing the price of specific prescriptions when patients show up at the hospital.