



The Honorable Michael Burgess, M.D.
Chairman
Energy and Commerce Health Subcommittee
U.S. House of Representatives
2336 Rayburn House Office Building
Washington, DC 20515

Re: Improving 340B Program Transparency, Child Site Eligibility & the Patient Definition

Dear Chairman Burgess,

The Physicians Advocacy Institute (PAI) appreciates the opportunity to share information relevant to the Committee's examination of the 340B program. PAI represents the interests of physicians across the nation, as our Board of Directors is comprised of CEOs/former CEOs from nine state medical associations – California Medical Association, Connecticut State Medical Society, Medical Association of Georgia, Nebraska Medical Association, Medical Society of the State of New York, North Carolina Medical Society, South Carolina Medical Association, Tennessee Medical Association and Texas Medical Association - as well as a physician member from Kentucky. In recent years, the 340B program has emerged as a major impediment to independent physician practices in each of PAI's represented states.

PAI strongly supports the work of the Committee to examine factors affecting competition and consolidation in the healthcare market, including your January 2018 oversight report on the 340B program. We agree with the Committee's finding that the 340B program "lacks transparency," which is critical in ensuring that the 340B program serves its intended purpose for true "safety net" providers. To this end, PAI is concerned about the growth in 340B program participants – mostly hospitals – in the past 17 years, as the program has grown from approximately 8,600 entities in 2001 to 42,000 entities as of October 2017. More importantly, a 2018 Avalere study found that hospitals continue to acquire physician practices at increasing rates, as hospital-owned physician practices grew by 107% over the 2012-2016 period. PAI believes the 340B program is a major contributor to these consolidation trends, which in turn reduces patient access to independent physician practices in their community, shifts care to the more expensive hospital setting, and erodes competition.

PAI believes that patients will benefit significantly from efforts to improve program integrity and implement new reporting requirements in the 340B program. We specifically recommend the Committee consider reforms to the 340B program to address these critical issues:

- **Implement New 340B Program Transparency Criteria:** Recent program reports on 340B program revenue and charity care rates by 340B hospitals call into question whether this "safety net" program is serving its original goals. PAI therefore supports enhanced reporting

requirements for entities related to their use of 340B program discounts, charity care, and other data relevant to the program's intent.

- **Reform Child Site Eligibility Criteria:** The 340B program's explosive growth is linked to the acquisition of physician practices by 340B hospitals, which are then established as "child sites" that can furnish deeply discounted drugs. PAI urges Congress to consider more stringent eligibility criteria that limit when and how hospitals' child sites can qualify for the program. This reform will in turn help preserve patient access to independent physician practices and help increase competition in the provider market.
- **Establish a Clear and Appropriate Patient Definition:** One of the most problematic issues in the 340B program is the lack of a statutory definition of a 340B "patient." PAI urges the Committee to consider a patient definition that accounts for a patient's income and insurance status. This will also help ensure that the program's benefits are targeted at underinsured and uninsured patients, consistent with the safety net program's intent.

We look forward to working with you as you continue your examination of the 340B program. If you have any questions, please contact me at rseligson@ncmedsoc.org, or Kelly C. Kenney, PAI's Executive Vice President and CEO, at k2strategiesllc@gmail.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert W. Seligson". The signature is fluid and cursive, with a large initial "R" and "S".

Robert W. Seligson, MBA, MA
President, Physicians Advocacy Institute



The Honorable Greg Walden
Chairman
Energy and Commerce Committee
U.S. House of Representatives
2185 Rayburn House Office Building
Washington, DC 20515

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President, Physicians Advocacy Institute