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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

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January 17, 2024

VIA ELECTRONIC TRANSMISSION

Tim Wentworth
Chief Executive Officer
Walgreens Boots Alliance
108 Wilmot Rd.
Deerfield, IL 60015

Dear Mr. Wentworth:

I write to request information regarding your company's participation in the 340B Drug Discount Program (340B Program). The 340B Program was designed to allow covered entities, like certain hospitals, clinics, and community health centers, to obtain lower prices on the drugs that they provide for their patients, and enables these entities to "stretch scarce federal resources as far as possible."¹ By participating in the 340B Program, covered entities are expected to pass on these savings to America's most vulnerable patients, by either offering discounted drugs or by providing charity care to patients. However, federal law imposes few restrictions with respect to how these savings are used.

Contract pharmacies provide prescription drugs to patients of covered entities participating in the 340B Program.² Initially, the Health Services Resources Administration (HRSA) restricted covered entities to enter into agreements with only one contract pharmacy.³ However, in 2010, HRSA issued new guidance that allowed covered entities to enter into agreements with an unlimited number of contract pharmacies.⁴ As a result, the number of contract pharmacies participating in the 340B Program has skyrocketed. To illustrate, between 2009 and 2022, the number of retail pharmacies participating in the 340B Program, not including mail order and specialty pharmacies, grew exponentially from 789 to 25,775—an approximately 3,166 percent increase in less than 15 years.⁵

¹ H.R. Rept. No. 102-384(II), at 12 (1992). As a condition of participation in the 340B Program, drug manufacturers are required to charge no more than the "ceiling price" on certain outpatient prescription drugs purchased by the covered entities. 42 U.S.C. § 256b(a)(1), (4).

² U.S. DEP'T OF HEALTH AND HUMAN SERVS., OEI-05-13-00431, CONTRACT PHARMACY ARRANGEMENTS IN THE 340B PROGRAM (2014). Contract pharmacies include retail, mail-order, and specialty pharmacies.

³ 61 FR 43,551 (1996).

⁴ 75 FR 10,272 (2010).

⁵ Sayeh Nikpay, et al., *Trends in 340B Drug Pricing Program Contract Growth Among Retail Pharmacies From 2009 to 2022*, JAMA HEALTH FORUM (Aug. 4, 2023), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10403775/>.

Due to the complexity of the 340B Program, covered entities often use third-party administrators (TPA), like Walgreens' 340B Complete (340B Complete). 340B Complete markets its services as "an end-to-end 340B Program" that, among other things, "enables customers to expand the economic benefits of the 340B Program resulting in their ability to better support their community, serve more patients and provide other needed services."⁶ According to the 340B Complete program, these services range from audit and operational support, inventory management, and increased savings.⁷

The 340B Program does not impose any restrictions or limitations on the fees a covered entity may pay their contract pharmacy or TPA.⁸ According to the Government Accountability Office (GAO), contracts between a covered entity and a contract pharmacy typically include language requiring the covered entity to pay a flat fee, plus a percentage of revenue generated for each 340B prescription to the contract pharmacy.⁹ Between 2014 and 2016, these fees, according to GAO, ranged from \$6 to \$15 dollars per prescription.¹⁰ These favorable reimbursement terms allow the contract pharmacy and/or the TPA to realize large profit margins.

Walgreens is the second largest contract pharmacy participant in the 340B Program. Out of the 194,016 contractual relationships between participating pharmacies and covered entities, an estimated 46,100 are between a Walgreens affiliated pharmacy and a covered entity.¹¹ Walgreens' outsized role in the 340B Program allows it to realize significant profits. Indeed, during Walgreen's 2023 earnings call, executives discussed the financial "headwinds" that will impact Walgreens' 340B book of business including "[manufacturer] restrictions and litigation."¹²

As the one of the largest pharmacy participants in the 340B Program, and to better understand how Walgreens generates revenue from it, please respond to the following questions on a question-by-question basis, no later than February 6, 2024. I request that all documents be unredacted, produced in electronic form, and Bates stamped. Unless otherwise stated, the below questions seek information or documentation from 2019 to the date of this letter.

1. Regarding your company's participation in the 340B Program:
 - a. Please describe the types of services 340B Complete provides to covered entities participating in the 340B Program.
 - b. Are covered entities required to use 340B Complete as their designated TPA?

⁶ *340B Complete*, WALGREENS, <https://www.walgreens.com/healthcare-solutions/how-we-can-help/340b-complete> (last visited Ja. 13, 2024), *Wellpartner About Us*, WELLPARTNER, <http://www.wellpartner.com/company/company-overview/> (last visited Nov. 29, 2023).

⁷ *Id.*

⁸ GOV'T. ACCOUNTABILITY OFF., GAO-18-480, DRUG DISCOUNT PROGRAM, FEDERAL OVERSIGHT OF COMPLIANCE AT 340B CONTRACT PHARMACIES NEEDS IMPROVEMENT AT 13, n. 27 (June 2018).

⁹ *Id.* at 25.

¹⁰ *Id.*, at 4, 26.

¹¹ Adam J. Fein, Ph.D, *EXCLUSIVE: For 2023, Five For-Profit Retailers and PBMs Dominate an Evolving 340B Contract Pharmacy Market*, DRUG CHANNELS (July 11, 2023), <https://www.drugchannels.net/2023/07/exclusive-for-2023-five-for-profit.html>.

¹² *WBA Earnings Call for the period ending May 31, 2023*, THE MOTLEY FOOL (June 27, 2023), <https://www.fool.com/earnings/call-transcripts/2023/06/27/walgreens-boots-alliance-wba-q3-2023-earnings-call/>

- c. How does your 340B Complete identify prescriptions as 340B-eligible vs. noneligible? What level of information is shared? Please describe the mechanisms in place to ensure confidentiality.
- d. Does Walgreens or 340B Complete assist covered entities in sharing 340B discounts with patients? If so, please explain.

2. Regarding your business relationships with covered entities:

- a. Please describe how revenue is generated from the 340B Program for your company. How does 340B Complete account for this revenue in its annual financial statements submitted to the U.S. Securities and Exchange Commission?
- b. Please describe the types of revenue that your company receives from covered entities, including but not limited to, fees, discounts, services, business offerings, or other remuneration, including those offered by wholly-owned or partially-owned subsidiaries or affiliates. Please explain how these fees are structured.
- c. Please provide a list of all covered entities that contract with 340B Complete to provide 340B pharmacy services.
- d. For each covered entity that your company contracts with, please provide your company's annual gross and net revenues generated from the 340B Program.
- e. Please produce unredacted copies of all TPA and contract pharmacy agreements between 340B Complete and covered entities.
- f. Please also produce unredacted copies of all TPA and contract pharmacy agreements entered into with Yakima Valley Farm Workers Clinic, Sun River Valley, Cleveland Clinic, and Bon Secours Mercy Health, if applicable.

3. Regarding your contract pharmacies:

- a. Please provide the number of contract pharmacy arrangements between 340B Complete-affiliated pharmacies and covered entities. Please list the name, location, and distance from the covered entity for each affiliated pharmacy. What percentage of these covered entities are located in either urbanized areas (UA) or urban clusters (UC)?¹³
- b. Please provide the number of 340B Complete-affiliated pharmacies who, as of November 1, 2023, were able to dispense 340B-eligible prescriptions, including those pharmacies who might not have a direct contractual relationship with a covered entity.

¹³ 87 FR 16,706 (2022).

Sincerely,

Bill Cassidy, M.D.

Bill Cassidy, M.D.

Ranking Member

U.S. Senate Committee on Health,
Education, Labor, and Pensions