California Hospital Association

June 20, 2024

RE:

- **H.R. 7635 – The 340B Pharmaceutical Access To Invest in Essential, Needed Treatments & Support (PATIENTS) Act of 2024**
- **H.R. 8574 – The 340B Affording Care for Communities and Ensuring a Strong Safety-net (ACCESS) Act**

Dear Members of the California Congressional Delegation:

On behalf of our more than 400 member hospitals and health systems — 175 of which are 340B eligible covered entities — the California Hospital Association (CHA) would like to express support for H.R. 7635 (Matsui, D-CA), the 340B PATIENTS Act, and concern about H.R. 8574, the 340B ACCESS Act.

Congress created the 340B program to help covered entities stretch scarce resources, reach more patients, and provide more comprehensive services. H.R. 7635, the 340B PATIENTS Act, makes sensible reforms to the program to help achieve these goals. It codifies 340B providers' ability to use contract pharmacies to dispense 340B discounted drugs and ends pervasive drug company restrictions on the use of contract or community pharmacy arrangements in 340B. These restrictions make it difficult for underserved patients to get vital medication. While the existing 340B statute already makes the drug company restrictions unlawful, this new bill makes it even clearer. **Therefore, CHA encourages you to co-sponsor the 340B PATIENTS Act and preserve access to care for individuals at risk of inequitable outcomes.**

In contrast, the core provisions of the 340B ACCESS Act will reduce access to care for vulnerable populations. If enacted these provisions would:

- *Reduce Safety Net Hospital Participation*: Only the largest safety net hospitals in a state will be able to participate in the 340B program, dramatically reducing the program's ability to expand access to care – particularly in smaller communities. These provisions also create onerous and punitive compliance requirements that will have a chilling effect on participation for hospitals that remain eligible, further reducing access to comprehensive services.

- *Constrain Patient Access to Covered Drugs*: The definition of a 340B eligible patient is narrowed such that underinsured patients, most telehealth patients, and discharge prescriptions filled on an outpatient basis are ineligible. Therefore, this narrowed definition excludes a large portion of the population at risk for inequitable outcomes, inhibits innovative care delivery models, and increases the risk of readmissions.

499 So. Capitol Street SW, Suite 410, Washington, DC 20003 ▪ Office: (202) 488-3740 ▪ FAX: (202) 488-4418

1215 K Street, Suite 700, Sacramento, CA 95814 ▪ Office: (916) 443-7401 ▪ www.calhospital.org

Additionally, the 340B ACCESS Act severely restricts the use of community pharmacies. Community pharmacies currently provide health care access for large numbers of underserved patients. As of 2022, 80% of rural counties nationally had a contract pharmacy with a 340B hospital. Contract pharmacies were located in 74% of counties with higher-than-average uninsured populations, 81% of counties with higher-than-average unemployment, and 82% of counties with high food insecurity.

- *Limit Care in Community Settings*: While an increasing volume of care is being shifted into community settings, the ACCESS Act limits the use of "child sites" to those in medically underserved areas. Many areas with "adequate" access to health professionals still have large populations of individuals who lack access to care because they are uninsured or underinsured. Therefore, these populations still rely on 340B child sites to access care and obtain covered drugs.

If the ACCESS Act is passed, it would reduce participation in the 340B program by safety net hospitals, forcing many to eliminate services needed in underserved communities or close outright. This outcome is unacceptable at a time when the need for strengthening the 340B program to preserve access to care for underserved populations has never been greater.

California's hospitals are struggling financially, due in part to inadequate governmental payment rates and rapidly increasing costs — particularly for pharmaceuticals. A recent report by nationally renowned consulting firm Kaufman Hall finds that drug expenses in California's hospitals increased 19% from 2019 to 2023. However, commercial and governmental payment rates have not kept up with cost growth. Medicare and Medi-Cal cover approximately 73% of patients in California's hospitals. Combined, Medicare and Medi-Cal only cover three-fourths of the cost to treat these patients. This means that on average a California hospital loses — inclusive of the 340B discount — approximately 25 cents for each dollar of cost to provide care to almost three-quarters of their patients.

The financial pressure that continues to build is such that 60% of the state's hospitals have unsustainably low operating margins. While the average California hospital's margin is 3.96%, the average 340B hospital's margin is 0.1%. This lower margin reflects the increased volume of care provided by 340B hospitals to the uninsured and underinsured individuals. As evidence of this pressure, in 2023 one California 340B hospital (Madera Community Hospital) closed and another (Beverly Hospital) declared bankruptcy. Many other 340B hospitals are in severe financial distress and perilously close to reducing services, declaring bankruptcy, or shuttering outright. Over 80% of funding recipients from California's distressed hospital loan program are 340B hospitals.

Over the last 30 years, the 340B program has been a bulwark against the increasing financial pressures for rural and safety-net hospitals. Consistent with Congress' objectives, the 340B program allows health care providers to stretch scarce federal resources to better serve their patients and communities. The savings 340B hospitals achieve through purchasing certain outpatient drugs at a discount allow them to provide a range of programs and services that directly benefit Californians. For example, in 2019, California's 340B hospitals were able to provide $7.1 billion in additional benefits to their communities. This funding went to programs like medication therapy management, diabetes education and counseling, behavioral health services, opioid

treatment services, and the provision of free or discounted drugs to those in need. **The 340B program supports these programs and services at no cost to taxpayers.**

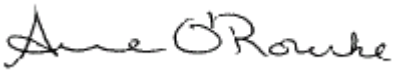
The 340B program is especially critical in the face of rising drug prices. A recent report by the U.S. Department of Health and Human Services (HHS) found that between January 2022 and January 2023, prices increased an average of 15.2% for over 4,200 drugs, many of which are used to treat cancer and other chronic conditions. Compounding this problem is the practice by drug companies of introducing drugs into the market at record high prices, crossing a median price of $300,000 in 2023. These high drug prices are increasing at an alarming rate. This extraordinary median price for a new drug represents an increase of 35% from 2022. These drug prices and subsequent price increases — at the sole discretion of drug companies — consume the resources hospitals have available to care for their communities, making the 340B program vital for patients and providers.

The 340B program has grown mainly due to factors beyond hospitals' control, such as rising drug prices and increased reliance on specialty drugs for lifesaving or function-restoring treatments. Finally, as government regulations have prioritized shifting certain procedures from inpatient to outpatient care, more medications have been subject to 340B discounts.

Despite this growth, 340B discounts to eligible hospitals continue to comprise a small share of drug companies' record high revenue. According to a recent study by Healthsperien, drug companies provided an estimated $46.5 billion in discounts to 340B hospitals in 2022 — roughly 3.1% of their global revenues and 7% of U.S. revenues that year. Despite these discounts, the 10 largest pharmaceutical manufacturers still enjoyed an average operating margin exceeding 28%. Further limiting the 340B program would only increase these margins at the expense of access to care for populations at risk of inequitable outcomes.

Your work to preserve access to care in rural and underserved communities by providing stability in the 340B program is vital, and CHA looks forward to working with you. If you have questions, please do not hesitate to contact me at (202) 488-4494 or aorourke@calhospital.org.

Sincerely,



Anne O'Rourke
Senior Vice President, Federal Relations